Washington MONTHLY

**PLUS:** Jonathan Alter on FDR's "decider" moment

# The End of LEGAL BRIBERY

## How the Abramoff case could change Washington.

By Jeffrey Birnbaum

Also: The GOP's "impeachment" ploy

June 2006
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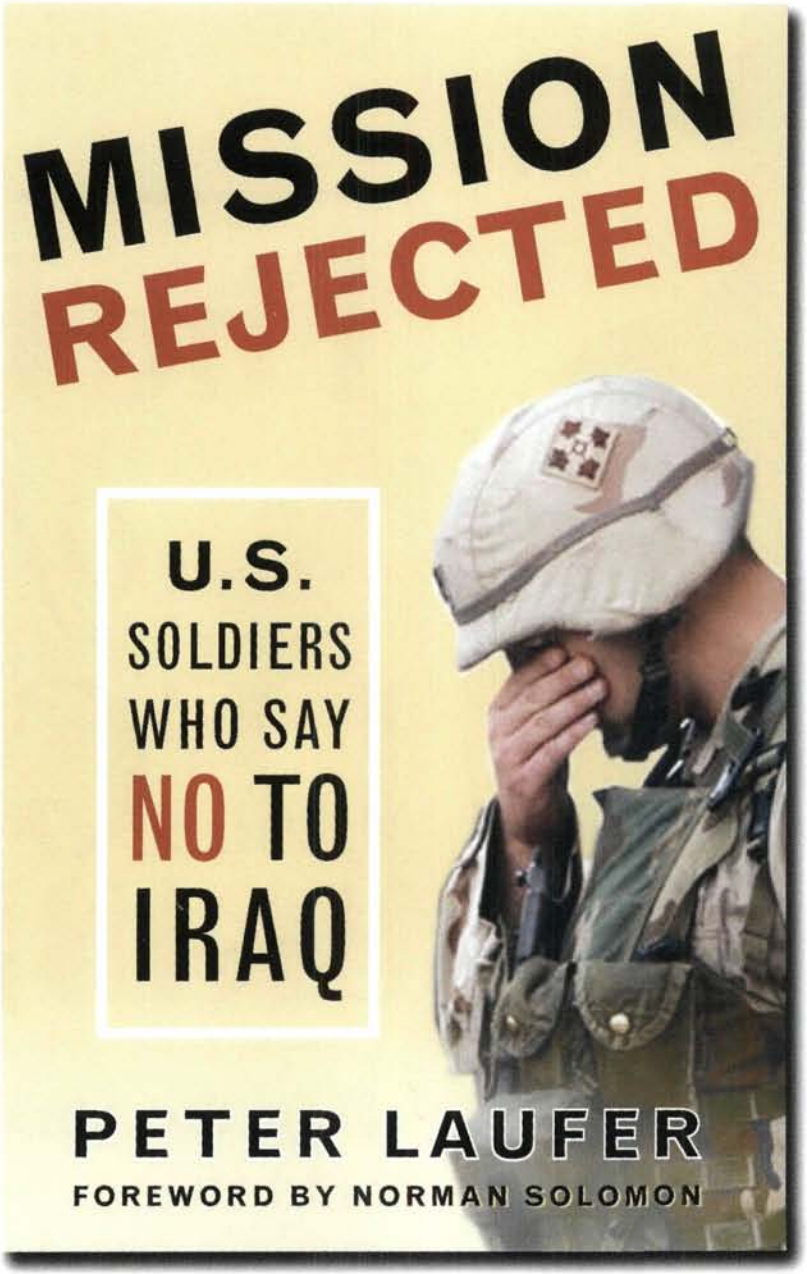


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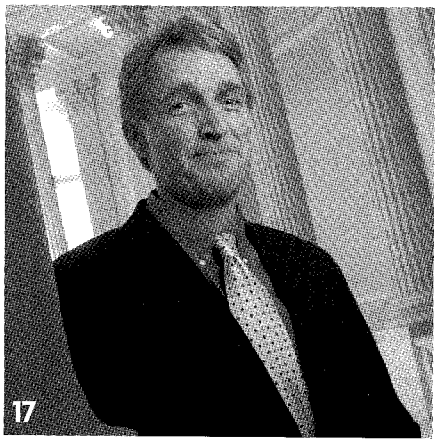
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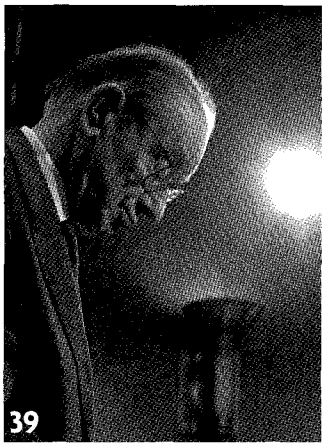

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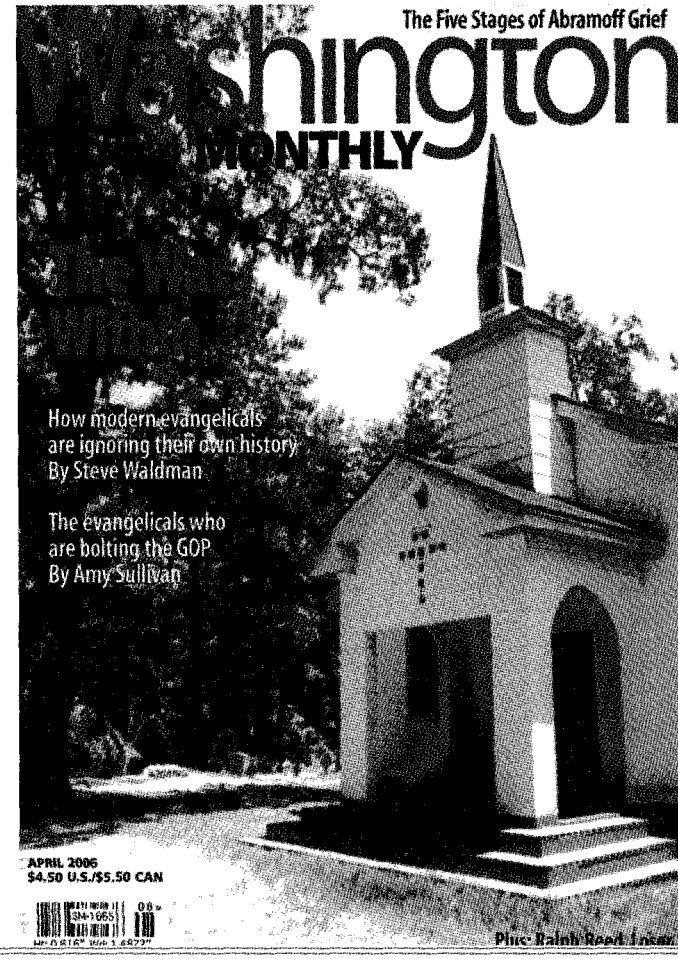
# LETTERS




[ April 2006 ]

## Amnesiac evangelicals

Major thanks are due to Steven Waldman for his illuminating article about the passion of 19th-century evangelicals for separation of church and state ("The Framers and the Faithful," April). I would like to comment, though, about his statement that the Great Awakening "seeded" the "revolutionary idea" of religious opposition to an established church and royal tyranny. Let's not forget that sectaries in the English Civil War had been deeply involved both in Cromwell's armies and in pressing for the King's head to be cut off. The Massachusetts Puritans did establish their own church, but they were religious and in many cases were actual blood descendants of the English regicides, and memories were strong. The seeds were already there.

DAVID BELDEN
Accord, N.Y.

There is something missing from Waldman's account of events. The established churches did not rely solely on funding from tithes and similar compulsory contributions. They also had assets such as glebe land. Practically all of this was stripped from them, notably in Virginia, so it was not merely a matter of whether the churches should receive funds but also of whether they could even retain what they already had. Taking the whole picture together, it wasn't about giving them more, but about letting them even maintain their position.

P.M. LAWRENCE
via email

> "Jesus would not need to revolt from the Republican Party; he never would have been a part of it in the first place."

## Leaving the fold

Thank you so much for the article by Amy Sullivan ("When Would Jesus Bolt?" April). You give hope to those of us who are Biblical Christians and who have long held that our faith calls us to what the world often calls progressive politics. The Bible recognizes that the world's lust for power and money always hurts the powerless, and Christians are called to side with the powerless.

THE REV. DR. STEVE POGOLOFF
Durham, N.C.

Great article. I have long



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resented the equation of morality, spirituality, and religion with the Christian right. There are lots of us out there who are moral and spiritual in other religious traditions who care about human and environmental needs and would be pleased to work with anyone who is willing to work towards those agendas in good faith. It would be wonderful to see some evangelicals living up to a broader perspective of faith.

RHODA SILVER
via email

Your article gives me hope. I am a Republican who has lost faith in this administration and the Republican Party. They have become "the party of greed," and I have felt for some time that they were using religion for their agenda and had little compassion for anything but big business and corporations. I am also concerned about the environment and George Bush's stance on global warming. Thumbs-up to Randy Brinson!

SHARRON MORAN
via email

Would Ms. Sullivan please join the Republican Party and leave the Democrats alone? One religious nut party is enough, don't you think? We don't need two.

FRED CACCHIONE
Naples, Fla.

You missed the real point in explaining why the Alabama GOP did not support the Bible Literacy Bill in the Alabama Legislature. Having had much more experience with the Democrats that control the legislature here, I know Republicans were very wary of the fact that the bill expanded the grasp of the legislature by allowing the legislators to bypass the elected members of the Alabama School Board to identify the approved textbook and publisher for this course. With the powerful education lobby in this state, we do not want to allow the legislature to begin dictating which textbooks will be used in our classrooms.

The simple truth is that students in Alabama schools can already take Bible literacy courses similar to the one identified in this bill and can use a variety of textbooks, including the one mandated in this bill. The bill, as written, served no useful purpose except to allow Alabama Democrats to pander to evangelical voters.

SUSAN FILLIPPELI
ALGOP 3rd District Chairman
Auburn, Ala.

I am amazed that the Republican Party thinks the people of America are so ignorant that we cannot see the "big picture" of their appalling use of us as it fits their needs and desires. I am a Christian who believes that we are stewards of all the earth and everything and everyone on it at all times. What big business sees as their rights over the rest of the world is cause for dismay and consternation.

LINDA VORIS
via email

Outstanding piece! The only problem I have is with the title. Jesus would not need to revolt from the Republican Party; he never would have been a part of it in the first place. "By their fruit shall you know them"...Matthew 7:16 in the gospel according to Jesus Christ, not George W. Bush.

KATHY HARDMAN
Mt. Pleasant, Texas



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# Tilting at Windmills

by Charles Peters

## We're all staying at the Dubai Ritz

Why do the bills from the Pentagon for Halliburton's subsidiary, KBR, always seem on the high side? In the case of the company's contract to restore oil services in Iraq, the explanation is not difficult to understand. Under the terms of the contract, writes Griff Witte of *The Washington Post*, "KBR earns its profit as a percentage of its costs." The more the company inflates its costs, the greater its profit.

## It could be bad in Islamabad

Everyone is worried about Iran—and with good reason. But I worry even more about Pakistan. It already has the bomb—and not just one. Its ruler, Pervez Musharraf, is unpopular, seen by many to be a stooge of the United States. Islamic fundamentalism is growing. Yet when I talk to the experts, they assure me the Pakistani army is on our side and can control any revolt. That's what they used to say about the Shah's army.

## The "our snack room is filthy" whistle blower

The American Foreign Service Association presents four annual awards for "constructive dissent." This year there were only eight nominations for the awards, even though there are 10,000 foreign service officers. Last year, there weren't many more—17, to be exact—and the year before there were only seven.

"The problem is not that there aren't people who deserve an award, but that people don't want to be nominated," explains AFSA president J. Anthony Holmes to Nicholas Kralev of *The Washington Times*. "They worry about negative repercussions. There is a feeling that questioning policy is extremely risky."

Everyone is worried about Iran—and with good reason. But I worry even more about Pakistan. They already have the bomb.

This is definitely part of the problem. Discouraging dissent has been characteristic of the Bush administration. Indeed, on the same day that Kralev's article appeared, Michael Gordon had another piece in *The New York Times*, dealing with the harm done by the suppression of dissent at Donald Rumsfeld's Pentagon.

Although part of the problem is the Bush administration, another part is buried deep in bureaucratic culture. The foreign service is a risk-averse culture, Barbara Bergen, coordinator of the awards, tells Kralev, who reports that "[n]one of the nominations this year is related to a controversial foreign policy issue, such as Iraq, Iran, North Korea, or the Israeli-Palestinian conflict.

"Two of those nominated voiced disagreement with visa procedures, one with a personnel issue involving a local employee of an embassy overseas, and one with a policy denying basic benefits to same-sex partners."

I must say that in my experience, nothing stirs the passions of the foreign and civil services more than issues involving pay and benefits. Still, a lot of these people are very smart and do have dissenting opinions that they now share *sotto voce* only among friends. They should be encouraged to speak out. And they are not encouraged by the Bush gang.

"This administration does not tolerate dissent," one foreign service officer tells Kralev. Condoleezza Rice "runs a tight ship, and you'd better stay on board."

## Our mistake, but you pay

The Earned Income Tax Credit promised to be a great boon for the working poor, the very people who most deserved a helping hand. Yet many of them don't take advantage of it. The reason is that it is way too complicated.

"It's so complex that the IRS publishes more than 50 pages of instructions," writes Prof. Dorothy Brown of the Washington & Lee University School of Law in a *New York Times* op-ed. "It is so complex that a Government Accountability Office report showed that taxpayers, tax return preparers, and IRS staff members regularly made mistakes while calculating and administering it."

Congress has attempted to deal with the problem by pressing the IRS to audit more low-income returns. The result is that a disproportionate amount of the IRS



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audit effort has gone to taxpayers who, even squeezed to the maximum, can offer little more to the treasury when the obvious targets of the auditors should be rich cheats from whom the take could be substantial.

Instead of auditing the poor, the obvious solution is for Congress to simplify the law and restore the credit to what Prof. Brown describes as its original purpose—"rewarding the poor for working, not penalizing them for being poor."

## Can you hear me now?

If you are driven round the bend by those automated phone responses offering you the choice of 7, 8, or 9 options—"listen carefully because our menu may have changed"—none of which fits your case, Clint Swett of the *Sacramento Bee* has some tips for you. First, press 0. Sometimes this works right away; occasionally, as when I call Amtrak, you have to wait for the first pitch to be spoken. Or say, "get human" or "get an agent" or "get a representative." Or just wait, pretending you have an old-fashioned rotary phone.

But my favorite of Swett's suggestions is, mumble. It seems that if the system can't understand your answer to its questions, it will connect you to an actual live human being.

## A woman scorned

A jilted fiancé has provided the key to the case against Jack Abramoff and ultimately the one against Tom DeLay. It seems that Michael Scanlon, DeLay's top staff connection to Abramoff, had planned to marry another DeLay staff member, Emily Miller. After they got engaged, according to *The Wall Street Journal*, "Scanlon bought a $4.7 million oceanside mansion and guest house, formerly part of the DuPont Estate in Rehoboth Beach, Del ... furnished it down to the monogrammed towels" and told his bride-to-be it would be theirs. Then, adds the *Journal*, with the wedding a few months away, he called it off and started dating a 24-year-old waitress.

Emily Miller was not delighted by this development. So when prosecutors sought her help in building a case against Scanlon, she said sure. Now Scanlon has been indicted and has agreed to cooperate with the prosecutors, as has another DeLay staffer, Tony Rudy.

## Maybe they'll hire him at Abu Ghraib

The *Journal*'s story, by Brody Mullins, reminds me of an email that Rudy once sent Scanlon. First revealed in *The Breach* by Peter Baker, the email urged a hard charge to impeach Bill Clinton and tells a lot about the philosophy of the Abramoff/DeLay crowd.

"This whole thing about not kicking someone when they are down is BS. Not only do you kick him, you kick him until he passes out—then beat him over the head with a baseball bat, then roll him up in an old rug, and throw him off the cliff into the pound[ing] surf below."

## Gossip craven

One wonders what the *New York Post* is going to do about the "Page Six" scandal. Will it insist that there be some sort of independent investigation of the allegations against Richard Johnson? Did he or did he not have that deal with Ronald Perelman and Harvey Weinstein to have their coverage "finessed"? It does seem clear that Perelman's company gave a nice job to Johnson's fiance. And were there tits on Page Six for the tat of that $50,000 bachelor party Howard Rubenstein and Joe Francis threw for Johnson in Mexico? And what benefit, if any, did Mercedes-Benz derive from that first-class airfare and hotel stay at the Four Seasons for Johnson to go attend the Academy Awards in Los Angeles?

I'm confident that the *Post* will make sure that this investigation is pursued with the same vigor it urged Ken Starr to go after Bill Clinton.

## Let them live in cars

Speaking of the working poor's need for a break, according to a study by the National Low Income Housing Coalition, reported by *The New York Times*: "Last year was the first year on record...that a full-time worker at a minimum wage could not afford a one-bedroom apartment anywhere in the country." The minimum wage hasn't been raised for nine years. During that time, average rents have risen more than 28 percent.

## The chilling effect of hypothetical fines

You may recall that after the Sago Mine disaster in West Virginia, a number of news stories mentioned that the fines against coal companies for safety violations often went unpaid or were reduced to a pittance. It turns out that the problem is not confined to mine safety. It is true of federal fines generally.

"The government is owed more than $35 billion in fines and other payments from criminals and in civil cases, according to Justice Department figures," report Martha Mendoza and Christopher Sullivan of the Associated Press. Another example: "When nuclear labs around the country were found to be exposing workers to radiation and breaking other safety rules, assessments totaling $2.5 million were quickly ordered." The only problem was that the assessments were then waived.

This failure to collect fines also happens at the state level. "When a gasoline spill and explosion killed three young people in Washington [state], officials announced a record penalty against a gas pipeline company: $3 million to send the message that such tragedies 'must never happen again.'" What happened then? The



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pipeline fine was reduced by 92 percent.

### The hardship of taramasalata

Government programs have a tendency to outlive their usefulness, to continue long after their original purpose has been accomplished. One of my favorite examples of this comes from an article by James Bennet, the new editor of *The Atlantic*, written while he was working here in 1991. It described how the Rural Electrification Agency lasted long after every farm in America had been wired by finding other worthy projects, such as helping out country clubs.

The most recent example I've discovered was in an article about hardship pay for the State Department's overseas posts. It describes how money to pay for posts in Iraq and Afghanistan has been found by eliminating hardship pay in Athens, Warsaw, Hong Kong, and Seoul, meaning that up until now, State Department employees at these posts have been pulling down the extra bucks. Athens was found suitable for the Olympics two years ago, Seoul 18 years ago. Warsaw has not been a hardship post for almost as long, and Hong Kong has not been one for at least 50 years.

### In English, please?

Everyone tells me Michael Chertoff is a smart fellow, and no one can question his dedication. After all, he gave up a nice lifetime job as a judge on a federal circuit court of appeals. Still, he talks in a way that makes alarm bells sound in my mind as I recall long dull meetings in the bureaucracy. He calls for a "properly risk-managed approach to critical infrastructure" and "an integrated, sensible, systems-based approach." And according to Dana Milbank of *The Washington Post*, to whom I am indebted for these examples, he speaks of "the critical points of triangulation" and of "better information about the constituents of the supply chain." At DHS, he aims for "internal integration into a unified command structure." I have to say that I have never known anyone who talked this way who was also an effective leader.

### This headline brought to you by the oil industry

Don't automatically assume a hybrid car will save gas. If it's a big SUV or you use the car for long trips, the savings won't be significant, writes Jamie Lincoln Kitman in a recent op-ed in *The New York Times*. I like corrections to conventional wisdom like this, but I do have a complaint about how the *Times* presented the piece. Its subhead: "If you want to save gas, don't drive a hybrid." That is not what the article says. Indeed, it makes clear that if your driving is predominantly around town, you will save gas and money with the Toyota Prius.

> I'm confident that the *New York Post* will make sure that the investigation into the Page Six scandal is pursued with the same vigor it urged Ken Starr to go after Bill Clinton.

### No one wants job training—except the workers

Over one-third of male high school students—35 percent, to be exact—do not graduate, according to a recent study by the Manhattan Institute. This follows a recent cover article in *Time* about the deplorable number of high school dropouts. My son, who teaches at a high school in San Bernardino, Calif., and who has for several years run a program to encourage students to go to college, thinks he knows the reason. "A lot of these kids don't want to go to college, and you aren't going to persuade them. What they need to keep them in school is a good vocational education program that they can see is going to train them for a real job they can get."

Unfortunately, voc. ed. has been unfashionable for many years. Many articles are written about the value of a college education, but few about the need for job training in high school. The result is a large number of dropouts, a large percentage of whom are unemployed.

Vocational education has not just been out of fashion. Training for work as electricians, plumbers, and other well-paying construction jobs has been discouraged by the labor unions who don't want competition. Furthermore, high school faculties are dominated by teachers of college prep courses who want their subjects to dominate the curriculum and command the lion's share of the school budget. It's going to take a mighty effort to change this sad situation. But it's good to know that at least one prominent politician, Gov. Arnold Schwarzenegger of California, is actually trying to do something about the problem.

### It's hard work to find help this bad

Speaking of DHS, you have to wonder who has been doing the hiring over there. One employee has been arrested for indecent exposure. He was the second-highest ranking investigator at U.S. Customs and he was actually in charge of an operation to catch sex offenders. Another, DHS's deputy press secretary, was allegedly attempting to use the internet to seduce what he thought was a 14-year-old girl, who unfortunately for him turned out to be a detective in a Florida sheriff's office.



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And don't forget that female lawyer from DHS, who almost blew the government's case against Zacarias Moussaoui by trying to coach witnesses after having been specifically instructed by a judge not to do so.

### So 9/11 wasn't a total loss...at least his career was safe

Back to risk-averse bureaucrats for a moment. Another example comes from the recent trial of Zacarias Moussaoui. When the Minneapolis bureau of the FBI was trying desperately to get a search warrant to go through Moussaoui's belongings, where they could have found evidence of the 9/11 plot before 9/11, a Washington FBI supervisor named Michael Maltbie kept refusing to help. At the trial, one of the Minneapolis agents testified, according to *The New York Times*, that "Mr. Maltbie had told him he was reluctant to press for a warrant because doing so would be risking his career and 'he was not about to let that happen to him.'"

### Lotto blotto

"South Carolina officially started its state lottery yesterday, becoming the last state on the East Coast to add government-sponsored gambling," reported the Associated Press recently. And *The Wall Street Journal* reports that state-sponsored slot machines are now in use in nine states: Delaware, Iowa, Maine, New York, Oregon, Oklahoma, Rhode Island, South Dakota, and West Virginia. Pennsylvania will soon join them, and other states are considering the move.

The *Journal* calls slots "one of the most popular and addictive forms of betting." If they are addictive, why are states sponsoring them? Because, observes Richard Leone, who was a member of the national gambling commission, they see the revenue they gain as a "free lunch." They think they are avoiding unpopular taxes, but in truth, the revenue produced by lotteries and slots is a tax--only as Leone also observes, it is a tax "more regressive than any."

Lottery tickets are purchased and slots are played largely by people of modest means. For a state to advertise its lottery and slots is enticing people to spend money many of them cannot afford to lose. And, what may be worst of all, it lures potential addicts into becoming real ones.

The American Foreign Service Association presents four annual awards for "constructive dissent." This year there were only eight nominations for the awards, even though there are 10,000 foreign service officers.

### It takes a lot of Stairmasters to protect the country

Back to homeland security for a moment. Did you know that some of the DHS' grants to fire departments are being used for physical-fitness programs? "In Florida, the Plantation City Council recently voted to use its $28,000 for treadmills, stationary bikes, and training machines for police and firefighters," reports Audrey Hudson of *The Washington Times*. "The Crawfordsville Fire Department in Indiana is using its $55,000 to buy gym equipment and provide nutritional counseling and instruct firefighters on how to become fitness trainers."

### Pardon us, Mr. Ford

Thirty years ago, Gerald Ford was rejected by the American public when he sought four more years in the White House after succeeding Richard Nixon in August 1974. Yet, before he pardoned Richard Nixon a month later, Ford had seemed to be on one of the most notable presidential honeymoons in our history. His straightforward manner and Midwestern openness provided a welcome contrast to his predecessor's convincing imitation of Richard III. Choosing as his vice president the moderate Nelson Rockefeller, the man Nixon had seen as his principal Republican rival, had only appeared to solidify the esteem in which Ford was held. Even the liberal Arthur Schlesinger Jr. expressed warm approval. Then came the pardon.

The reaction was swift and unforgiving. Ford's approval ratings immediately dropped 22 percent. The nation's leading newspaper, *The New York Times*, thundered its editorial condemnation of the pardon. Even the presidential press secretary, Jerry terHorst, resigned in protest. As Barry Werth recounts in his new book *31 Days*, Ford's presidency never recovered.

Yet, looking back on it, the pardon has struck a good many of us as the right thing for Ford to have done. The country had already overdosed on Watergate. It had dominated the news for over a year. The desire for vengeance on the part of most Democrats and even some Republicans was palpable. Of course, Nixon had earned every bit of the hatred. But it seems to me now that we should have been satisfied to have forced Nixon's resignation. Why heap more humiliation on him? And why distract the country from dealing with important problems like the war in Vietnam and escalating inflation? A Nixon trial would have dominated the news from the moment he was charged until he was sentenced.

Thus the pardon was not only merciful, but sensible. Ford did the right thing and the rest of us were wrong to condemn him. ♦



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# 10 MILES SQUARE

"...such district (not exceeding ten mile square)...[shall] become the seat of the government of the United States.
—THE CONSTITUTION OF THE UNITED STATES

# Poor Sports

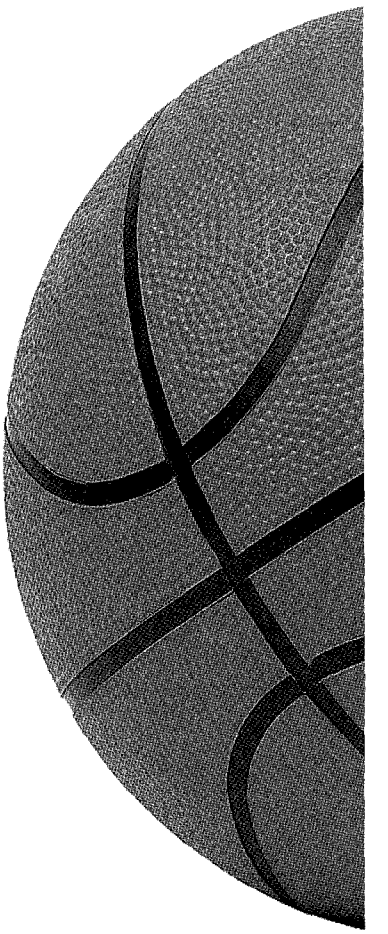
## The tepid fandom of Washingtonians.

**By Amy Sullivan**

If you grew up in Michigan in the 1980s, as I did, you pretty much had to be a Detroit Pistons fan. It was the era of Isiah Thomas and Joe Dumars, when the team's physical style of play earned it the sobriquet "Bad Boys" and the disdain of most everyone else in the country. But we loved them, and we watched the playoffs everywhere—even at Girls State one year, several hundred high school girls crowded into a dorm rec room to witness the Pistons' second consecutive NBA title.

The sports culture that I found when I arrived in Washington, D.C. more than a decade ago couldn't have been more different. The local NBA team—then known as the Washington Bullets—starred two former Michigan players, which was enough to make me a fan. But they mostly lost, and this, I figured, explained why I never seemed to run across any other Bullet fans around town.

These days, however, the newly-renamed Washington Wizards are one of the most exciting teams in the NBA, a perennial playoff contender. They are led by the charismatic guard Gilbert Arenas, whose quirks (he plays in low-top sneakers and spends halftimes immersed in online poker) and skills (he is the league's fourth top scorer) should





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make him an appealing superstar. So where's the excitement?

If you walked around downtown Washington this spring, you'd have found virtually no sign that the Wizards were in the playoffs—no Wizards pennants in store windows, no overheard conversations in coffee shops about last night's winning three-pointer. When I talked to friends—most of them, like me, transplants from other cities—about the Wizards, the typical reaction was "Oh yeah, they're in the playoffs, aren't they?" *They*, not *we*.

At the games themselves, fans don't even fill the arena. Indeed, an embarrassing number who do show up root quite openly for the other side. There's not another city in the country where this kind of public display of disloyalty is so prevalent—and so tolerated.

Since sports fandom is at least partly about identity, about pride of place, what does it mean that so many people who live in Washington dismiss the home team? Certainly, the fact that a major portion of the local population was born elsewhere has something to do with it. "We're immigrants, with loyalties to the old country," explains Marshall Wittman of the Democratic Leadership Council, a former Texan and 26-year DC-area resident who still roots for the Cowboys.

But other cities absorb large numbers of outsiders and still manage to generate pride and unity among their residents. Part of becoming a New Yorker or Chicagoan is adapting to the local culture, adopting the Yankees or

## Boehner's Bar Tab

Since taking over from Tom DeLay as House majority leader, Rep. John Boehner (R-Ohio) has made some faint murmurs about cleaning up Washington's dollar-driven political culture. But a quick survey of the party schedule for Boehner's political action committee, juxtaposed with the Congressman's voting record, suggests he may not be the best man for that job.

**2/14/02**: Boehner votes against campaign finance reform legislation.
**2/20/02**: His PAC spends $7314 at Shelly's Backroom and two other capital watering holes.
**Drowning his sorrows at the bill's passage?**

**4/18/02**: Votes to make the Bush tax cuts permanent.
**5/31/02**: Spends $1795 at Sam and Harry's, Washington, D.C.
**6/25/02**: Spends $5407, back at Sam and Harry's.
**7/25/02**: Spends $8496 at the Belmont Country Club, Ashburn, Va.
**Those tax cuts sure stimulated the local economy.**

**5/8/03**: Spends $5705 at Polly Esther's, Washington's 80s-themed dance club.
**5/9/03**: Votes to increase the amount businesses can write off their taxes.
**Maybe he was hung over.**

**9/26/05**: Spends $5700 at the Hyde Park Chop House, Dublin, Ohio.
**9/29/05**: Votes to gut the Endangered Species Act.
**Guess he liked that elk chop.**

**12/8/05**: Votes to extend more Bush tax cuts.
**12/15/05**: Spends $11,220 at the Robert Trent Jones Golf Club, Lake Manassas, Va.
**Tax cuts + golf = bliss!**

Research by James Beale and Jeffrey Van der Veer.



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*Mark Penn, the American pollster…is now advising Silvio Berlusconi, the Italian premier.* —The Independent, March 2006

*[Berlusconi] called opposition voters 'coglioni' or testicles. He also compared himself to Jesus Christ and offended Beijing by claiming Chinese communists boiled babies to use as fertiliser.* —The Scotsman, April 2006

MEMORANDUM

TO: Prime Minister Berlusconi
FROM: Mark Penn
DATE: April 5, 2006

RE: Next week's election

Dear Silvio,

I apologize for the talking point about the testicles. (I'm telling you, Maddie Albright got a bounce when she talked about Cuba and cojones – maybe try it in Spanish.) And sorry for the Christ comparison idea. (We had excellent numbers on Jesus.) But I stand by the line about the Chinese. Remember, you have to focus on the concerns of average Italian voters – jobs, healthcare, and Chinese babies boiled into fertilizer by Communists.

Some other points:

• Your line about Italian secretaries being the most beautiful in the world went over well with visiting foreign investors. But, true, it has cost you some support among women voters – mainly in the 18-to-85 demographic. I think the way to patch that up might be through the media. (I'm told you control about 90 percent of that, and that is definitely something we should leverage.)

• Our polls show that voters associate the Berlusconi brand fairly strongly with organized crime, and this is dragging down your numbers in the non-incarcerated voting segment. What you need is a Sister Souljah moment. We recommend that you invite James Gandolfini to Italy and publicly berate him.

• You've said, "I fight communism the way Churchill fought against Nazism." Great comparison – under-45 rural women really like that sort of confidence. But you should go with a positive message about what you're fighting for, like: "Churchill fought against Nazism, but I'm fighting for jobs, healthcare, and education." That worked for Tom Vilsack.

• I like your line about how "Only Napoleon did more than I have done," and it's given you a 30 percent spike on Corsica. But, since that's in France, how about someone more local? Augustus Caesar, for instance, also had a lot of legislative accomplishments.

• Final suggestion. I don't always recommend this, but denial can be a genuine ace-in-the-hole. If the numbers go against you, and if the courts rule against you, do not – repeat, do not – concede. Drag it out for several embarrassing weeks. Or just stay in office. That was my advice to Bob Mugabe.

Sincerely,

Mark

By T. A. Frank



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Cubs (or Mets or White Sox).

In Washington, however, the immigrants don't assimilate. That's a big reason why the city, despite its size and power, feels so artificial. It's like one giant hotel where people stop off for a temporary stay, sometimes for the length of an administration, sometimes for decades, but almost always with some intention of leaving.

It didn't always used to be this way. Forty years ago (so I'm told), Washington had its own unique and proud identity. The Kennedys made public service seem noble, and living in D.C. seem glamorous. But at a certain point—some mark 1994 as the pivotal year—it became uncool to identity oneself as a Washingtonian. In this anti-Washington age, childhood sports allegiances have become political statements: Professing an undying loyalty to the St. Louis Cardinals telegraphs that you are not an inside-the-Beltway elitist, but someone firmly rooted in heartland values. To admit that you are a Washington sports fan is a *faux pas* akin to confessing that you spend your evenings at Georgetown cocktail parties. A quarter of a century ago, Richard Nixon was happy to be known as a rabid Redskins fan. Today, George W. Bush, perhaps rightly, sees no political benefit in publicly rooting for Washington sports teams.

Many sports fans here deal with the conundrum by declaring Washington teams their "default" option. For the past ten years, for instance, I've rooted for the Wizards whenever they weren't playing the Pistons. But that's a half-hearted, anemic kind of fandom, and I've felt vaguely uneasy about it for a while. This spring, at a Pistons-Wizards game, the tension became too much.

The ostensibly hometown crowd inside the Verizon Center was a sea of Detroit jerseys and teenagers screaming "'Sheed!" every time Detroit power forward Rasheed Wallace ran down the court. Somewhere around the fourth time the girl in front of me—a Georgetown student with long manicured nails and a Ben Wallace jersey on—jumped up to scream "You suck, Wizards!" I snapped. "Oh, shut up," I muttered, maybe a little too loudly. By the time the Wizards handed an 18-point drubbing to the Pistons, my conflicted self was a fleeting memory. I was too busy high-fiving my neighbors as the Pistons fans slunk out of the arena.

I may be a Michigan girl, but I'm a Washingtonian now. It's my political statement, abandoning my old identity and accepting the new. If we Washingtonians have any pride—in who we are and in what we do here—we'll root for the home team. Especially when it's winning.

**Amy Sullivan** is an editor of *The Washington Monthly.*

## THE WASHINGTON MONTHLY'S
## Monthly Journalism Award

PAUL WATSON

"U.S. Military Secrets for Sale at Afghan Bazaar"
*Los Angeles Times*
April 10-13, 2006

The U.S. installation at Bagram—the military's largest Afghan base, and a major intelligence center—had already been the site of a massive security breach: Last summer, four al Qaeda members escaped by picking their cell locks. Now, it turns out the base's problems didn't stop at the front gates.

As Paul Watson reported in the *Los Angeles Times*, stolen computer drives containing classified information were being openly hawked in a market just 200 yards from the main entrance. The mostly unencrypted intelligence reports included frank and often embarrassing assessments of local figures, details of American defenses, and personal information and Social Security numbers for hundreds of American servicemembers.

Watson, working with special correspondent Wesal Zaman, didn't let the story end there. He followed up with reports from inside the shops hawking the devices, and found a pilfered flash-drive that appeared to contain identifying details and information for U.S. spies working for the Special Forces. Watson's reporting threw a harsh spotlight on continued security shortcomings at Bagram. Responding to the exposés, the military immediately launched an investigation into the thefts, and a review of existing security policies.



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# HAWKS for DISSENT

## A pro-Iraq war ex-soldier defends the generals who took on Rumsfeld.

### By Ralph Peters

Pop quiz: Who was our secretary of war—the closest figure we had to a secretary of defense—in 1942? Too hard? Then who was FDR's trusted adviser on how to wage the Second World War?

The secretary of war was Henry L. Stimson. But it is General George C. Marshall whom we remember, the man who shaped a war-winning strategy and then went on to win the peace with the Marshall Plan. Secretary Stimson's performance was competent and constructive, but he did not interfere with military operations. By contrast, everyone remembers that Robert S. McNamara was the secretary of defense as the Vietnam war went awry, but few could name the nation's most senior military officers in any given year of that conflict.

Unpalatable as it may be to those raised on Oliver Stone's reinvention of history, the truth is that our nation's most successful wartime partnerships have been between presidents and generals: Lincoln and Grant, Wilson and Pershing, FDR and Marshall. Such professional, non-political relationships brought us a remarkable century of victories, from Mexico City to Tokyo Bay.

Thereafter, the miserable road to Saigon—and Baghdad—was paved with the best intentions. Six decades ago, the National Security Act of 1947 inserted buffers between presidents and their top military men, leading immediately to a series of military debacles or, at best, stalemates. Instead of Marshall speaking—respectfully but frankly—to FDR, we got McNamara huddling with LBJ and, now, Donald Rumsfeld, who never saw combat, interpreting warfare to a president who never saw combat. Instead of making battlefield decisions based upon military

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**Ralph Peters** is a retired Army officer, strategist, columnist, and the author of 21 books, including the forthcoming *Never Quit the Fight*, to be published in July.



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necessity, the rise of powerful secretaries of defense resulted in combat decisions based upon political expediency.

Defense secretaries, not dissident retired generals, have politicized our national security. As for the recently invented "requirement" for retired officers to remain silent and apolitical, would we really like to strike George Washington and Dwight D. Eisenhower from our history books? After all, it was Eisenhower, the former soldier, who warned us so presciently of the military-industrial complex, while secretaries of defense—one after another—merely shoveled money into its maw.

The Goldwater-Nichols Act, an echo of Vietnam, was supposed to guarantee unfiltered military advice to the president. It didn't work. The elaborate superstructure of the contemporary presidency, with its many gatekeepers, excludes the nation's senior military leaders from the frequent, intimate, and unconstrained contact with the president that served us so well in the past. Too much has been delegated: While the president has the indisputable right to dismiss military leaders (as Lincoln certainly had to do), he also has the duty to study the professional advice of those who will lead our troops into battle before overruling it. With the approval of Congress (and increasingly without it), the president makes our strategic decisions, but it is his obligation to the American people to make informed decisions.

Today, however, our presidents do not hear unvarnished, de-politicized military advice, and the situation has never been graver than under the current administration. Presidential interviews with generals are essentially pre-scripted, with vetted talking points—political courtiers control access to the president and determine what the president will hear. Only the president himself could change the situation by demanding to hear a range of military views (without commissars at the shoulders of the generals). President George W. Bush, who has chosen war as a policy tool, may be the American president most isolated from sound military advice.

## Brass Attacks

At least six retired combat commanders have now gone public with the sort of technical—not political—criticism I've heard for years in private conversations with our generals. None of the critics has anything to gain personally. Indeed, each has much to lose by speaking out against any aspect of the most vindictive presidential administration since the Nixon era. Dissenters are automatically blackballed from the lucrative defense industry jobs that corrode the ethics of retired senior officer and they'll never be offered plum posts in any future administration, Republican or Democrat. In addition, they've had to undergo savage and dishonest personal attacks in the media from support-the-administration-at-all-costs conservative columnists, from retired officers who draw their paychecks from a defense industry that has plentiful reasons to be grateful to Donald Rumsfeld, and from serving officers promoted by the secretary of defense—not least the chairman of the joint chiefs, Gen. Peter Pace—who are not supposed to take public political positions, but who have nonetheless been slavish in their praise of Rumsfeld.

Remarkably, our gotcha media have given Rumsfeld's high-ranking uniformed supporters a pass while falling for the red-herring issue of civilian control of our military. Nor have our media investigated the defense industry and Bush administration ties of the retired officers who appear as television talking heads or write op-eds condemning the critical retirees. Were reporters or broadcast producers to do the slightest legwork (or keyboard work), they would uncover blatant conflicts of interest—it's as if a talk-show host interviewed an oil-industry executive on the rising price of gasoline without revealing his corporate allegiance.

The crucial issue, though, is the bogus charge of insubordination threatening the good order of civil-military relations. It's a spurious claim that has nonetheless been embraced uncritically by the orthodox on both the left and right. Instead of being alarmed that former soldiers—with no political ties or agendas—searched their consciences then went public with their criticism of a notoriously imperious defense secretary, we should celebrate the fact. Each of these men played by the rules, retiring before speaking out. None prejudiced good order. Not one stands to profit from his courage (quite the contrary).

If former officers cannot speak out on complex military issues, to whom can we turn for expert advice? To politicians who never deigned to serve in uniform themselves? To pundits equally lacking in military experience? To defense industry publicists? Surely, lifelong expertise should hold some value in our specialized society.

As someone who supported the destruction of the Saddam Hussein regime, who continues to support our efforts in Iraq, and who recently returned from Baghdad humbled by the commitment and courage of our soldiers and Marines, I am outraged by the disinformation campaign this administration has conducted against honorable and patriotic critics. Those on the pious right never fail to invoke the First Amendment when it suits their purposes, but now that six retired generals, without coordination or organizational support, have criticized one of the least-popular figures in the Bush administration, freedom of speech is suddenly un-American, criticism is a threat to the republic, and, according to one newspaper aligned with the administration, military retirees who dare to



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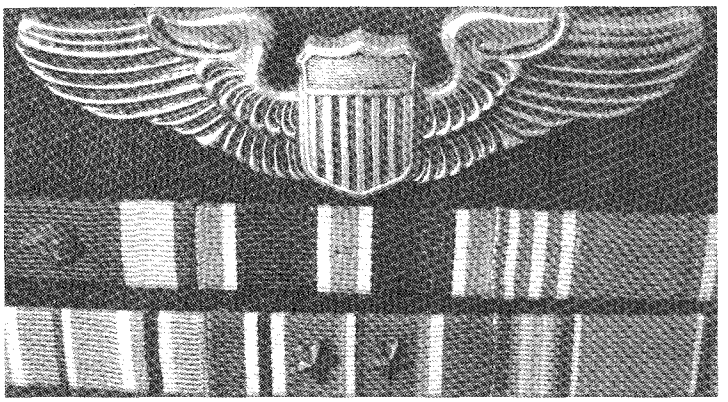
question the performance of the Office of the Secretary of Defense should be prosecuted.

We celebrate whistle blowers in corrupt corporations such as Enron, in the worlds of finance and health care, and even in the FBI. Yet, what national endeavor deserves greater scrutiny than the conduct of our wars? Do we truly want even retired military figures to remain silent if the blood of our fellow citizens, our national prestige and our wealth is squandered through incompetence? Do we desire a Prussian military that excuses every action by claiming it was only following orders?

In 22 years of uniformed service, I never encountered subversive speech among my peers. Every officer I've known has taken seriously his or her oath to uphold and defend our constitution. Their ethos was loyal—and silent—service. For a retired officer to raise a voice in dissent is a grave act of individual conscience, so earnest a decision that I suspect few civilians can grasp its emotional intensity.

THE PRESIDENT WILL ALWAYS BE THE ULTIMATE "DECIDER." BUT HIS OR HER DECISIONS MUST BE MADE AFTER HEARING UNFILTERED MILITARY ADVICE, NOT THE SPIN OF A FELLOW POLITICAL INSIDER.



Of course, the administration's no-holds-barred defense of Secretary Rumsfeld is really a defense of itself. From disseminating talking points against the critics to thousands of retired flag officers, to instigating op-eds (not a few of which have been bluntly dishonest), the administration's response to criticism has been character assassination combined with a skillful effort to shift the terms of the debate. We have been told that the critical retirees are simply gripers, disappointed in their military careers. What we're not told is that Major General John Batiste, the decorated former combat commander of the 1st Infantry Division in Iraq, turned down a third star rather than continue to serve under Secretary Rumsfeld, or that Major General Charles Swannack, another critic, led the Army's elite division, the 82nd Airborne, in combat in the Sunni Triangle. Every officer who's spoken out has had a successful career and is respected by those still in uniform. Yet voices closely tied to the Office of the Secretary of Defense, some belonging to former officers who took off their uniforms well over a decade ago and who have never walked an infantry patrol in Iraq, insist that Rumsfeld's critics somehow don't have the "big picture."

This is just a lie. Who better to understand and explain the unnecessary challenges our troops have faced and continue to face than the combat leaders who signed the letters of condolence to bereaved families (not using an autograph machine, as the Secretary of Defense did)? Should we put our trust instead in biased pundits, administration surrogates and a battery of yesteryear's military retirees who've fed heartily at the defense-industry trough and rely on continued access to the Pentagon?

## Capturing the President's ear

There is a cost to our nation from celebrity defense secretaries such as Robert S. McNamara, who shrugged as 50,000 American troops died; the tragic Les Aspin who, for political reasons, would not provide our troops in Somalia with a single company of tanks; and now Donald Rumsfeld, who seeks to take credit for the successes of others, while shunning blame for the casualties his obstinacy caused. The common denominator of these defense secretaries is that they politicized our mil-



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itary and its decision-making processes. It hasn't been the generals or admirals who have done so.

From the era of Winfield Scott through that of George Marshall, there was a logical, practical distribution of labor between the executive branch, Congress, and senior military leaders. Our presidents and legislators decided if, when, and with whom we would go to war (this process, too, has broken down under a series of imperial presidencies). Presidents, while keeping Congress informed, determined the broad outlines of our grand strategy. But our elected and appointed leaders allowed military professionals to determine the details of how our military would organize for war and how wars would be fought on the ground. It was an imperfect system, but it delivered a history of victories.

While the generals and admirals should never be given a blank check, we must return to our lost tradition of listening with an open mind to their professional advice about how to defeat an enemy we have determined to take on (or who has determined to take us on). The president will always be the ultimate "decider." But his or her decisions must be made after hearing unfiltered military advice, not the spin of a fellow political insider. If war is too important to be left to the generals, the battlefield is too deadly to be left to the politicians.

Yet, unwilling to address the what-happened-in-Iraq issues raised by his critics, Secretary Rumsfeld has attempted to play a shell game, blaming a hidebound Army reluctant to reform itself for all of his problems. At the same time, the Army reforms that paid off handsomely on the road to Baghdad and thereafter—for which the Secretary of Defense has tried to seize credit—were inaugurated in the late 1990s and then developed aggressively by General Eric Shinseki, the Army chief of staff sidelined by Rumsfeld for suggesting that an effective occupation of Iraq might take hundreds of thousands of troops.

To identify an organization truly unwilling to change, we need look no further than Rumsfeld's beloved Air Force. Far from driving "transformation" as he claims, the Defense Secretary has continued to buy hyper-expensive, virtually useless aircraft that were conceived in the 1980s to combat the Soviet air force. Rumsfeld's transformation program boils down to reducing our ground forces—the soldiers and Marines who rescued him from a fiasco in Iraq, where progress has been made despite his incompetence—in order to send massive welfare checks to the defense industry. One of the key worries within the military is that the administration is ignoring the serious lessons of our recent wars while continuing to purchase unaffordable and useless weapons systems that will lock our armed forces into 20th-century war-fighting models for decades to come. The defense secretary's major procurement programs are reactionary, not revolutionary.

Even if we did have a "hidebound" military reluctant to move, would we want it any other way? Contrary to left-wing myths, our generals and admirals tend to be reluctant to go to war, insisting on laying out the potential costs for decision-makers (Colin Powell might serve as the archetype of the ideal military professional). Would we prefer a military anxious to invade others? Would we prefer generals and admirals who abet the madcap visions of ideologues, right or left, rather than offering sober assessments of the risks of war? The institutional conservatism of our military occasionally has impeded the progress of new ideas (to my personal frustration during my own years in uniform), but it has generally served our nation well. Better a military that changes cautiously and eyes foreign adventures suspiciously than one that embraces every passing fad and cries for war at every provocation.

The administration will win this time around. It is able to bring to bear so much power that a half-dozen men of conscience haven't a chance. The word on the military-retiree street is that anyone else who speaks out against the secretary of defense will lose his defense-industry job or contracts. All the favors have been called in and scraps of access have won the allegiance of partisan columnists and talking-head generals alike. The six critics stand against the coercive powers of the Office of the Secretary of Defense, the administration behind it, the Republican Party and its loyalists—and all the wealth of our unscrupulous defense industry.

Doesn't it tell us something about the administration's awareness of the depth and breadth of its failures that it feels compelled to mobilize so many of its resources against six retired veterans exercising their First Amendment rights?

Americans who care about our country should be very skeptical of the administration's line that no military dissent—not even from retirees—is ever permissible. As a nation, we need to ask ourselves some very uncomfortable questions about the rise of hyper-political defense secretaries, the politicization of military affairs by both Republicans and Democrats, the isolation of the president from frank military advice and civilian interference in the smallest details of combat operations.

When a presidential administration will not tolerate honorable, legal criticism from those who dedicated their lives to uniformed service, we should be far more worried about ideologues in power than about a few retired infantrymen on pensions. ♦



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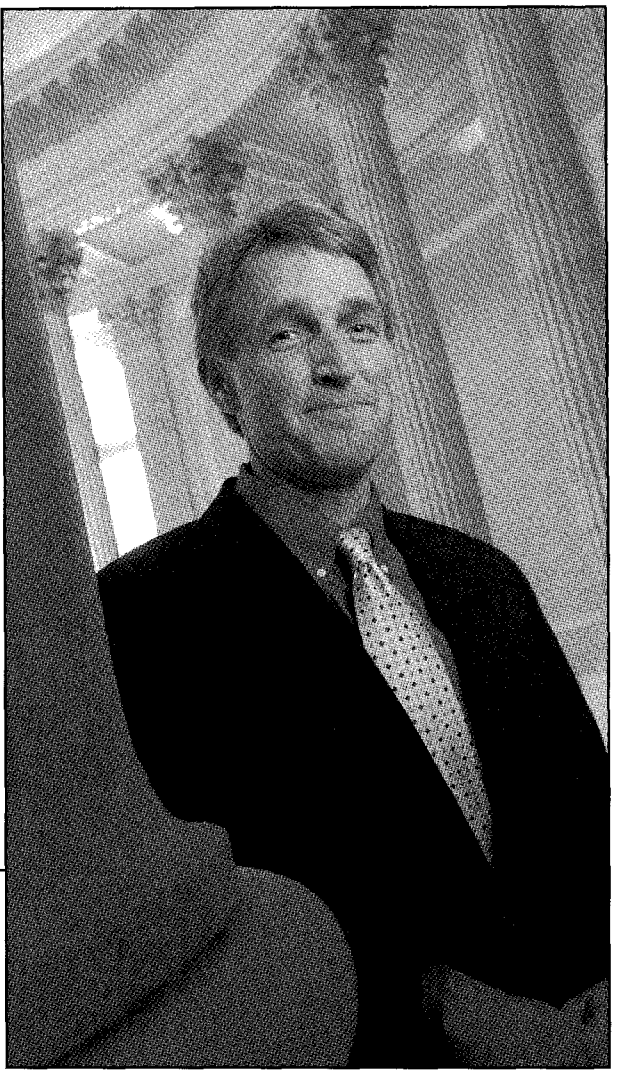
# The Pruner

## Is Rep. Jeff Flake the House's John McCain?



Rep. Jeff Flake in Washington, D.C. Photographed on April 24, 2006, by Sam Kittner for *The Washington Monthly.*

**By James Verini**

Insubordination was not exactly a hallmark of the DeLay era, so when two young Republican congressmen led a drive to force leadership elections and summarily toss Rep. Tom DeLay (R-Texas) from his majority leader post, it was a pretty clear sign that things had changed. Only a food fight in the House cafeteria could have better spelled out the end of DeLay's once vaunted and feared iron discipline. No longer could he send dissident caucus members scurrying back into line with a withering glare or a threat to cut spending in their district. Now he was the one being told—and by upstarts!—that it was time to go.

Indeed, by January of 2006, the entire Republican Party seemed to be in free fall. The increasingly unpopular president's approval ratings were dimming prospects for the midterm elections. The Jack Abramoff scandal was casting a pall over Congress and K Street. Duke Cunningham was reciting *mea culpas* on television. And DeLay himself was freshly indicted.

But for Jeff Flake, a three-term congressman from Arizona, the moment was an opportunity and a bittersweet vindication. He later told me that for years he had worried about the entrenched spoils system that DeLay epitomized, warning his colleagues: "We've got to change our ways, or this stuff is going to come back and bite us." And sure enough, DeLay's troubles were tainting the two hundred and some House Republicans not being investigated.

Seeing that Speaker Dennis Hastert (R-Ill.) was stalling and unconvinced that DeLay would make the responsible decision himself to step down from his leadership post, Flake forced the Hammer's hand. With his moderate colleague Rep. Charles Bass (R-N.H.), he circulated a petition that would require the Republican caucus to hold elections to select new leaders.

It was a risky move. At the time, most congressional Republicans were still sticking to the talking point—if no longer the sure belief—that DeLay would beat the charges. But underneath the surface was a well of panic waiting to be tapped. The petition got the 50 signatures it needed within a matter of hours. His first mission accomplished, Flake immediately began promoting his fellow Arizonan, Rep. John Shadegg, as a replacement for DeLay. He had stickers

**James Verini** is a writer based in Los Angeles.



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made up that read "SHADEGG=REFORM," and passed them out around the Capitol as if he was managing a student council race. In the end, Shadegg didn't make it past the first round of voting. But the eventual winner, Rep. John Boehner (R-Ohio), triumphed only after promising Flake and other reform-minded conservatives that he would push for institutional changes in the House.

Once again, a Republican from Arizona is making life difficult for his colleagues, marching to his own drummer. Flake, a self-described paleo-conservative ("I prefer that to neoconservative, anyway," he told me) has been a thorn in the side of the GOP leadership since he was elected to Congress in 2000. He has taken unpopular stands on subsidies (working with Rep. Chris Van Hollen (D-Md.) to fight a bailout for the tobacco industry), immigration (joining with liberals to support a guest-worker program), and lobbying reform (voting against the recent GOP effort to go after 527s). Under the old GOP reign, such heresies would have earned a congressman swift exile. Over the past few months, however, Flake has seen his profile steadily rise. Boehner singled him out for praise in a *Wall Street Journal* op-ed about reform, columnists John Tierney and George Will have written approvingly of him, and Flake scored an op-ed of his own in *The New York Times* earlier this year. More surprisingly, Flake has won admirers on the other side of the aisle, earning points for honesty from the likes of Barney Frank and Henry Waxman.

The similarities with another maverick, Flake's senior senator John McCain, are apparent. But McCain, like Barry Goldwater before him, has always been something of a loner. What makes Flake interesting is that he seems to be part of a group of conservative Republicans who have been pushing the House leadership toward more radical reform—back, they would say, to the vision of the 1994 revolutionaries. His current crusade, eliminating the anonymous spending measures called "earmarks" that are tacked onto bills and reports, has become a *cause celebre* among pork-hating legislators. And Flake has become a leading member of the conservative Republican Study Committee (RSC), which now comprises more than 100 representatives. When Jeff Flake leads a revolt, he brings more than camera crews in his wake. And that may make it impossible for the GOP leadership—and the White House—to ignore him.

## Blocking the "Bridge to Nowhere"

Flake's forebears were Mormon missionaries dispatched by Brigham Young in the late 19th century to scout and establish a settlement in Arizona for the pioneers who would follow behind them. William Jordan Flake and Erastus Snow founded the town of Snowflake where, nearly a century later, Flake grew up on a cattle ranch as the fifth of 11 children.

In early March, I visited Flake in Mesa, one of the rapidly growing suburbs that make up his district east of Phoenix and several hours south of Snowflake. His one-story ranch house is at the end of a dusty street in a sun-bleached gated development; it is surrounded for miles around by nothing but orange groves; trailer parks, other developments, and churches, including the nearby Church of Jesus Christ of Latter-Day Saints, where Flake, his wife, and their five children worship.

> Rep. Jeb Hensarling (R-Texas) describes Flake as "the Mikey of the Republican Study Committee. Any time there's a tough or uncertain mission, call Flake. He'll try it."

A tall, ruggedly handsome man with thick arms and broad shoulders, Flake was busy pruning a tree in his front yard with a manual wood saw when I arrived. He may not be literally settling territory the way his ancestors did, but Flake does act as an advance scout for many of his colleagues, testing out controversial positions and letting them linger behind until they're sure it's safe to join him. Rep. Jeb Hensarling (R-Texas) describes Flake as "the Mikey of the Republican Study Committee," referring to the up-for-anything young star of old Life cereal commercials. "Any time there's a tough or uncertain mission, call Flake. He'll try it."

Flake's mission now, as he outlines it to me, is nothing less than the dismantling of DeLay-ism, the spoils system by which the former majority leader achieved and retained power. "The Republican leadership basically said, 'We can't pretend to be small government conservatives anymore; let's just use the levers of power,'" Flake says as we talk inside. "That's been the M.O. to win elections—redistricting and passing out pork. That's hardly a model for the future."

As Flake sees it, the first step in returning his party to its conservative roots is to reform Congress by making it more difficult for politicians to slip pork projects into budget bills. "In 1994, Republicans ridiculed Democrats for earmarks, and justifiably so," he reminded me. "But we've taken it to a new level



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and made it far, far worse." That new level includes using earmarks to "convince" members to change their votes on key measures and to dole out favors to lobbyists in a way that is virtually untraceable.

Although his current proposal is just a first step to strip earmarks of their anonymity, requiring representatives to be identified with the funding they request, Flake would like to do away with the practice completely. That is not, it's safe to say, a majority opinion in the Republican caucus. "I was at a meeting on earmark reform a few weeks ago," he said, "and someone asked the question whether there's a constitutional right to earmarks." Shaking his head in disgust, Flake continued. "Most of the Republican caucus was saying, 'Yes.' And then someone said, Well what do we do with the Democrats who oppose our earmarks? The answer was, cut them off, of course. So I guess you only have a constitutional right to earmarks if you're a Republican. It was one of the most surreal things I've ever seen."

It's worth noting that earmark reform, though worthy, wouldn't by itself get to the heart of Washington's corruption problem. Earmarks are particularly offensive to small-government conservatives, but they don't play much of a role in sustaining the central dynamic of the Republican Congress : the outsized influence of corporate lobbyists on policy-making as manifested in the Abramoff, and, more openly, in the K Street Project.

Still, it's hard to overstate the extent to which politicians on both sides of the aisle have come to see earmarks as their privilege, or even a necessary part of the job, another form of fundraising. A Republican who crusades to eliminate this perk, and who defends the rights of Democrats in the process, isn't setting himself up to make friends. Yet Flake's commitment to the cause has made him a hero to fiscal conservatives. Rep. Bob Beauprez (R-Colo.) calls Flake "almost rabid in his passion for reform," with obvious admiration. Whenever Flake stands up on the House floor, at least a few members hoot out "earmarks!"

Far from avoiding confrontation, Flake seems to revel in taking the fight to the big dogs in the Republican leadership. Last fall, he went after a pet project of Sen. Ted Stevens (R-Alaska), the famous $223 million "Bridge to Nowhere" that would connect a small town in Alaska to a tiny island. Despite the hot-tempered senator's threat that he would resign from the Senate unless he got his bridge, fiscal conservatives succeeded in killing the project. According to *Roll Call*, the RSC celebrated by screening a key scene from the movie *The Bridge On the River Kwai*, in which the bridge is blown up. "It's Jeff Flake!" yelled one of the RSC members as Alec Guinness's character detonated the explosives. "It's Don Young [the Alaskan congressman] shooting at me!" Flake shouted back to a roomful of laughter.

But while his reform agenda has burnished Flake's reputation in an unusual way for such a junior congressman, it has also made him a more visible target, particularly in election years. In an era when incumbents, especially Republicans, often run unopposed, Flake faced a bitter primary in 2004. His opponent won the endorsement not only of Mesa's Associated General Contractors, but also of Flake's own mayor by arguing that Flake, who refuses to request earmarks for his district, wasn't bringing home the bacon. "That's how the game is played," Flake told me. "But when it came to the voters, they said, 'You go ahead, Flake.'"

## Short-term memory

When we met in March, Flake was once again worried about the prospect of a primary challenger. But the fact that he's even running for re-election is causing problems for him with some conservatives. When he first campaigned for Congress in 2000, Flake pledged to limit himself to three terms, even though term limits were already falling out of fashion by that point. *National Review* writer John Miller wrote recently that while he admires Flake, "it is troubling to learn that he is now breaking a promise to serve no more than three terms.... A year from now, I'll probably be glad that Rep. Flake is still hanging around D.C.—but I'll also think a little less of him."

Indeed, while it is his commitment to conservative principles that wins Flake praise across the political spectrum (Barney Frank calls him one of the few "intellectually honest conservatives" and Henry Waxman labels him "a man of principle"), Flake's critics argue that he is willing to quickly abandon his otherwise widely-touted principles when the moment suits him. On the term-limit issue, Flake says the importance of that movement has "just petered out." Last year, he was part of a bipartisan group opposing the Patriot Act renewal, on the grounds that it threatened civil liberties. After working closely with, among others, Rep. Dana Rohrabacher (R-Calif.) and Rep. Bernie Sanders (I-Vt.), Flake suddenly gave up the fight, according to Rohrabacher. It was widely suspected that he'd cut a deal with the administration. "He can be inspiring or exasperating, based on whether he's being true to his principles or not," says Rohrabacher. Flake insists that he did what he could on the Patriot Act, and managed to move the administration on key provisions.

Still, it was Flake and his merry band of fiscal conservatives who once again tied up the House in April, staging a showdown with pro-earmark House appropriators. Forcing the majority leader to choose between the two sides, Flake asked Boehner to guarantee that his earmark provision would not be touched. In the end, Boehner remembered those who helped his rise to power. Flake got his wish and the powerful committee members were reduced to spinning their defeat as a "compromise." ♦



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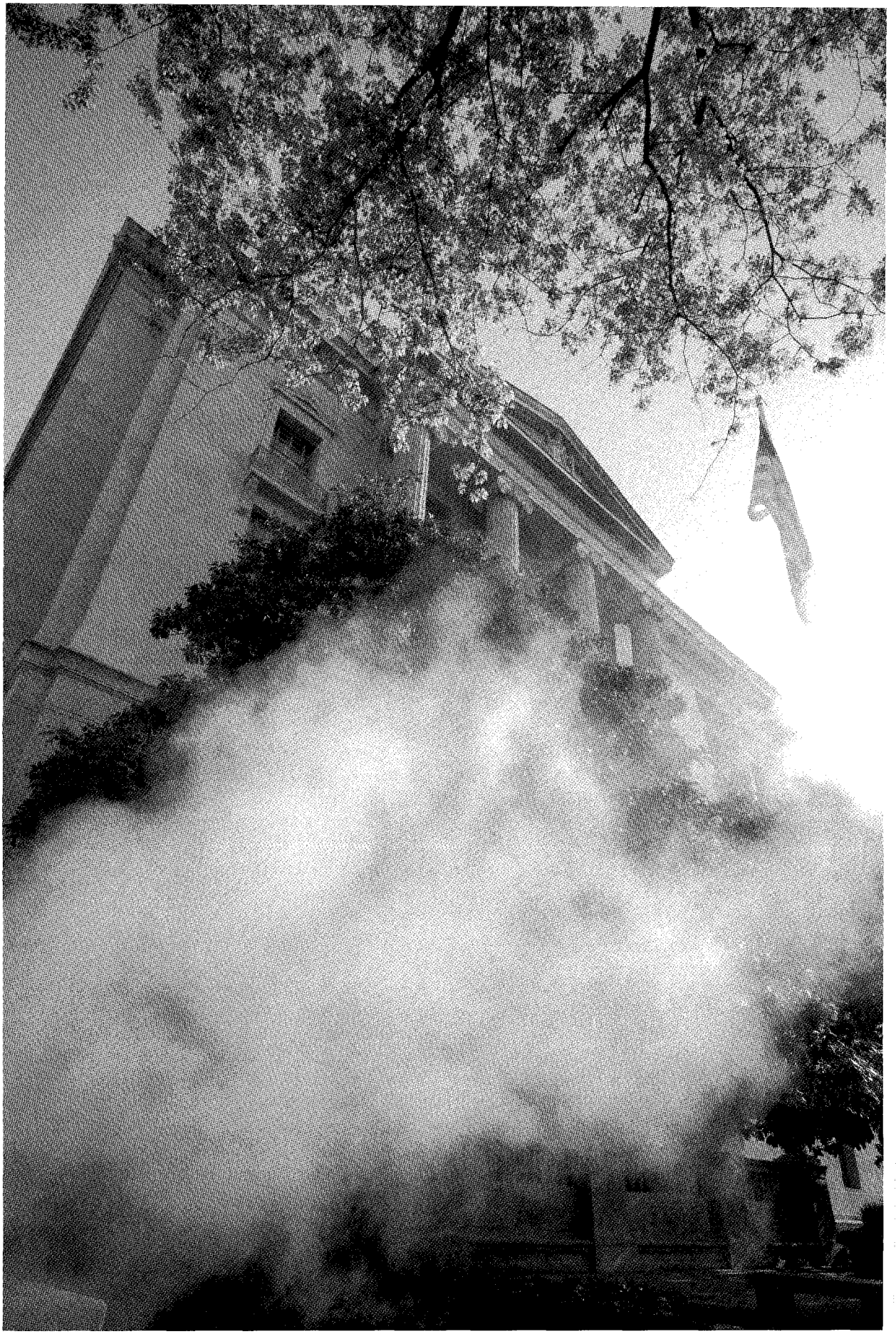

The Justice Department building in Washington, D.C. Photographed on April 19, 2006 by Sam Kittner for *The Washington Monthly.*



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# The END of LEGAL BRIBERY

## How the Abramoff case could change Washington.

By Jeffrey Birnbaum



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So far, the scandal surrounding disgraced lobbyist Jack Abramoff has produced some vivid and memorable examples of modern Washington graft—skybox tickets, pricey restaurant meals, golf junkets to Scotland. Yet at the center of the scandal is something more prosaic, and potentially far more explosive: good old-fashioned campaign donations. Deep in the plea agreements won by Justice Department lawyers are admissions by the defendants—Abramoff and his cronies, ex-DeLay aides Tony C. Rudy and Michael Scanlon—that they conspired to use campaign contributions to bribe lawmakers. Even though these gifts were fully disclosed and within prescribed limits, the government said they were criminal, and the defendants agreed. This aspect of the case has received little attention. But it is sending shudders down K Street. If such prosecutions were to become commonplace, the paid persuaders of Washington and their big-money clients would be dealt a body blow. If prosecutors begin to assert as a matter of routine that lobbyist gifts and campaign contributions are a form of bribery, it could open up a whole new front on the decades-old (and largely ineffective) effort to break the nexus of money and politics in the capital.

"More than in the past, the Department of Justice seems to be trying very hard to tie campaign contributions to legislative acts by members of Congress and to draw the inference that there's a criminal connection between the two," says Robert K. Kelner, chairman of the election law and political law practice at Covington & Burling. "If they succeed then I think it will change the standard advice that lawyers will give their clients about political contributions and also change common practices on Capitol Hill." Stanley Brand, a noted criminal defense attorney at the Brand Law Group in Washington, agrees. "The department is inching toward making campaign contributions the central thing of value when they charge a bribe," says Brand. "I don't know if they'll get all the way there. But it would be an eight on the Richter scale for the campaign finance system if they do. Every PAC and interest group would have to ask itself if its donation is going to be grist for a prosecution."

The earthquake would certainly upset Washington, but it would probably delight almost everyone else. For decades, opinion polls have shown that voters think their politicians are bought and sold by the rich and connected. But these same voters have also seen any number of campaign finance "reforms" put in place, only to watch the system become evermore driven by dollars.

Unlike overhaul efforts in the past, though, which have relied on politicians cleaning up the very system that keeps them in power, the Justice Department's Abramoff case opens up the possibility of genuine change. Imagine, for instance, if the oil companies and their executives could no longer link their campaign contributions to their interests in energy legislation. Or if trial lawyers couldn't do the same with tort reform legislation. Robbed of much of their ability to bend the power structure with donations and other gifts, these industries would have less reason to give at all. They'd be forced instead to rely on the persuasiveness of their arguments rather than the power of their pocketbooks.

## Legalized bribery

Campaign finance laws are built on a legal fiction. To wit: Electoral donations are considered within the law even though they are actually bribes at root. Think of them as "legalized bribery." Through bundled contributions and PAC giving, industries, labor unions, and interest groups of all stripes try to persuade lawmakers to vote their way on the issues they care most about. Donors do not express their desire just that way. They use euphemisms like "buying access" to wink and nod their way toward the same thought. But the truth is the truth. Interests give money to buy votes. Unfortunately for those interests, lawmakers receive funds from so many sources, and also sometimes make their legislative decisions based on factors that have nothing to do with money, that the contributions do not always produce the result they desire. Still, the basic fact remains. The dollars would not be offered unless the donors hoped they would lead to a very specific result.

At the same time, congressional campaigns must be privately funded. Candidates for elective office have no choice but to raise the money they need to pay for advertising, consultants and the like. And that, in turn, has forced the legal system to attempt the impossible: to clear the way for financial gifts while also trying to limit the influence those gifts inevitably bestow on the recipients. The result has been an elaborate set of monetary limits and disclosure requirements that superficially transform outcome-directed gratuities into federally sanctioned benefits.

The compromise has never worked very well. Numerous campaign finance overhauls enacted since Watergate, up to and including the 2002 McCain-Feingold bill, have driven out many of the grossest abuses—for instance, lawmakers blithely accepting envelopes of money in exchange for favors. And disclosure requirements have at least given citizens the ability to see who's trying to purchase influence from whom. But by providing the imprimatur of respectability to campaign contributions, the so-called reforms also helped increase the flow of that money, and bred in donors and lawmakers alike a sense of invulnerability.

The laws certainly didn't stop former Rep. Tony Coelho, head of the Democratic Congressional

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**Jeffrey Birnbaum** is a columnist and national correspondent for *The Washington Post* and a political analyst for FOX News Channel.



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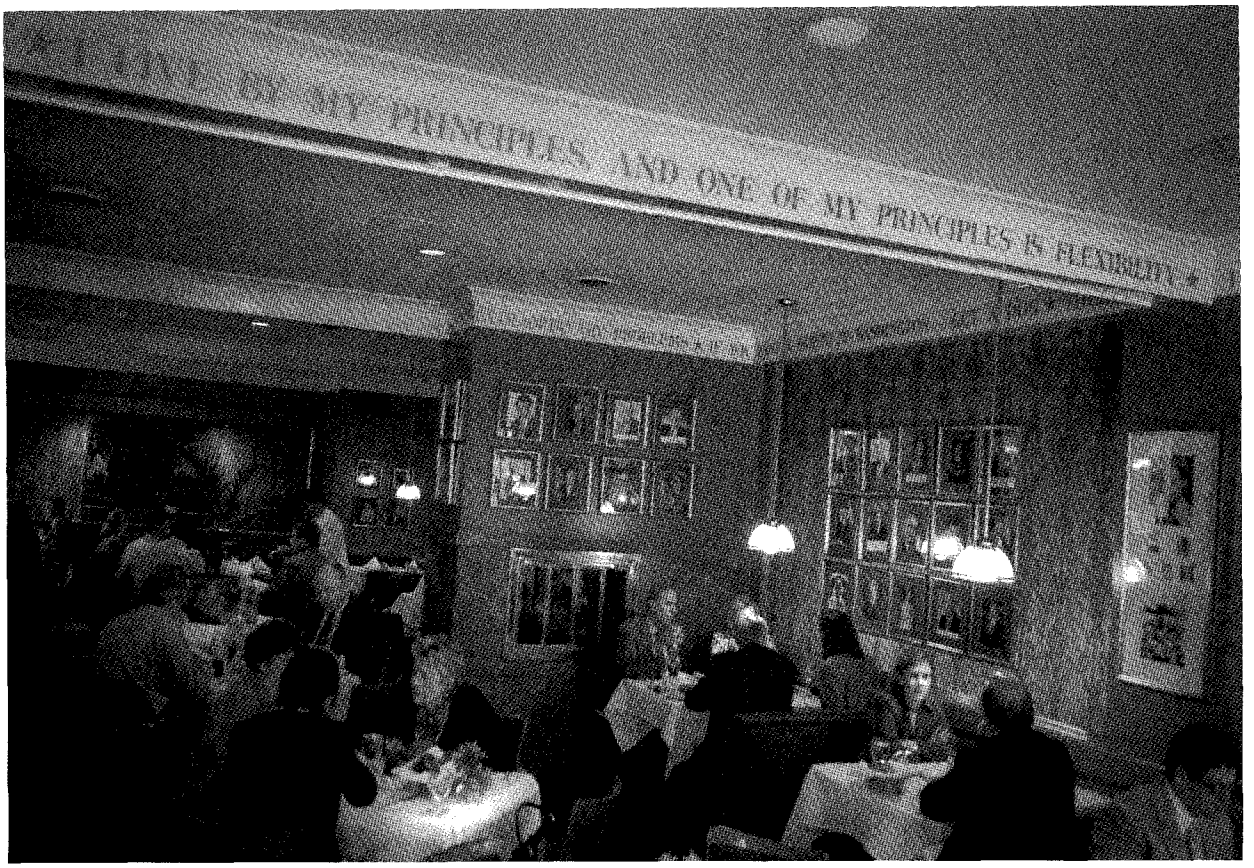


Inside the Monocle, a popular restaurant for Washington fundraisers. Photographed on April 30, 2006 by Sam Kittner for *The Washington Monthly*.

Campaign Committee in the 1980s, from openly demanding that GOP-leaning lobbyists share their largesse with the reigning Democrats as the price of having their concerns considered. Nor did they hinder Abramoff, DeLay, and others from melding K Street and the GOP into a modern-day political machine. By placing loyalists in key K Street jobs, and cutting out Democrats when they could, GOP leaders gave themselves the ability to divert rivers of donations (from, say, Indian tribes or drug companies) to whichever close House race or subterranean independent expenditure they wished. And they've attempted to punish lobbying organizations that wouldn't cooperate. DeLay was even warned about the practice by the House ethics committee in 1999 after he and others tried to prevent an electronics association from hiring a Democrat as its president. "That was incredibly objectionable and, I thought, illegal; legislation was so clearly tied to finances. And DeLay made no bones about it. He even kept a list of Republican contributors in his desk," said Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington (CREW). "Now, it seems the Justice Department is coming around to thinking that it is illegal, and that is an excellent thing."

## When is a bribe not a bribe?

Whether they knew it or not, donors have always been under threat of bribery charges if they overtly tried to buy a lawmaker's vote with their campaign contributions—and the lawmaker acquiesced in the deal. But both donors and politicians have been largely shielded from the consequences of their actions in part because bribery cases involving campaign contributions are hard to prove in court.

Still, such cases are winnable if prosecutors are willing to put in the time. Former South Carolina state representative Paul Derrick was convicted in 1999 on extortion and conspiracy charges related to taking a fully disclosed, $1,000 campaign contribution in exchange for his vote on a gambling bill. Authorities conducted a sting operation (called, appropriately, "Operation Lost Trust") that directly connected the technically legal donation to the vote.

"If somebody follows the legislature's rules to the letter but it's then proven that they took something including a campaign donation in exchange for some official act, they nonetheless would be violating criminal law," says Jan Baran, an expert on campaign-finance law with Wiley Rein & Fielding. Kathleen Clark, a professor at Washington University Law School in St. Louis agrees: "The court has put obstacles in the way of prosecutions of special interest campaign contributions, but has never made them impossible."

All contributions, of course, are not bribes. A politician who runs on an anti-abortion platform, takes contributions from anti-abortion supporters, and subsequently votes in line with those views, would never be



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subject to the bribery statute. "There's a large segment of fundraising activity that is perfectly legal and appropriate," notes Baran. "Candidates will always get money in legal amounts from people who support them. That's not evidence that the public official has done anything in exchange for that money."

The shorthand way of expressing when a legal contribution can be a bribe is this: When a person gives anything of value, including a nominally legal campaign contribution, to a public official in exchange for what's known in the trade as an "official act," that is a bribe. Sun-Diamond Growers of California was convicted during the Clinton administration of giving illegal gratuities to Agriculture Secretary Mike Espy, including tennis tickets, luggage and other gifts worth about $5,900. But the Supreme Court let the agricultural cooperative off the hook in 1999 when it wrote, "For bribery there must be a *quid pro quo*—a specific intent to give or receive something of value *in exchange* for an official act." Espy had gotten plenty from Sun-Diamond, but had done nothing in return for the gifts. Therefore, no crime was committed.

Sounds simple, right? Well, it isn't. UCLA law professor Daniel H. Lowenstein wrote an entire chapter in a 2004 scholarly book, *Private and Public Corruption*, that he entitled "When Is a Campaign Contribution a Bribe?" His answer to the question he posed was, essentially, "Well, it's hard to know." The law on the subject, he wrote, is "unstable," "cloudy," and "hopelessly confused." What about the instance, he asked, in which a lawmaker promises to support a major donor "whenever I can"? Is that illegal? Or how about when a lawmaker changes his position on an issue right after a big contribution is given by a company that wants him to vote that way? Can that possibly be okay?

Experience tells us that lawmakers and lobbyists almost never say directly what they mean when it comes to what an average person would consider to be graft. Neither side of such a transaction is generally dumb enough to speak the following sentence for example: "Okay, here's the deal, for $100,000, the vote will go the way we agree." (The now-incarcerated former representative Randy "Duke" Cunningham actually did write out a bribe list—$50,000 for every $1 million in appropriated funds he would obtain—on congressional stationery no less. But he is the exception.) If a lawmaker accepts money to vote in favor of a briber's interest, that is almost certainly a crime. But beyond that, the issue is not clear-cut. "It's very difficult to make campaign contributions into a bribe, especially in the absence of undisputable video or audio recordings," says Baran.

In addition to the difficulty of gathering sufficient incriminating evidence of an explicit quid pro quo, prosecutors must also contend with recent court rulings that have narrowed the definition of what constitutes an "official act." In a 2 to 1 decision by a federal appeals court panel in February, the illegal gratuities conviction of a former D.C. Metropolitan Police Department detective named Nelson Valdes was overturned because his actions were not a "formal" part of his job and, therefore, were not deemed to be an "official act." Valdes ran license plate numbers through law enforcement databases and provided the vehicle-ownership information that he collected to a person who paid him cash. But the court ruled that since the collecting of such data represented a "casual and informal use of government resources" and was not part of his normal duties, his 2002 conviction had to be reversed. The ruling makes it that much harder to win bribery cases involving campaign contributions. "Now, virtually every time the government tries to bring an official-acts prosecution," says Boston College law professor George Brown, "the defense will cite the Valdes case."

> "If the Abramoff prosecutors prevail in their arguments, special interests will be largely robbed of their ability to bend the power structure with donations. They will be forced to rely on the persuasiveness of their arguments rather than the power of their pocketbooks."

## A new supply of red ink

Yet despite all the obstacles, federal prosecutors have gathered enough incriminating evidence of campaign donation bribery in the Abramoff affair to convince those involved (and their high-priced lawyers) to own up to their crimes rather than take their chances in court. The pleas stemming from the Abramoff scandal all involve campaign donations. According to Abramoff's plea agreement, he, ex-DeLay aide Michael Scanlon, and others "engaged in a course of conduct through which one or both of them offered



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and provided a stream of things of value to public officials in exchange for a series of official acts. . . . These things of value included, but are not limited to, foreign and domestic travel, golf fees, frequent meals, entertainment, election support for candidates for government office, employment for relatives of officials, and campaign contributions." The plea deal for Tony Rudy, also a former DeLay aide, lists "election support" among the things of value he gave with Abramoff and others.

The Abramoff and Scanlon pleas get very specific. The contributions that they swapped for favors included $4,000 to the campaign committee of "Representative #1" and $10,000 in contributions to the National Republican Congressional Committee "at Representative #1's request." Representative #1 has been widely identified as Rep. Bob Ney (R-Ohio), who is under investigation as part of the Abramoff scam. Ney denies any wrongdoing. Officials close to the investigations say that possible campaign-donation bribery is also being looked at as part of the ongoing probes of as many as six other lawmakers.

The Abramoff incident has thrown official Washington into a whirl of self-examination and relative self-denial. All sorts of accepted rules and behaviors are being reconsidered. Many lawmakers and congressional staffers are voluntarily staying away from the fancy dinners and lunches that lobbyists love to host, at least for the time being. And one of Capitol Hill's sweetest and most widely available perks—travel to golf resorts underwritten by private pleaders—has become a rarely sampled treat.

But the most interesting signs of potentially big changes to come can be seen in the advice that beltway lawyers are giving to their clients. Ken Gross, head of the political law practice at Skadden, Arps, Slate, Meagher & Flom, has been swamped this year with requests for information and analysis from big corporations and trade associations eager to know how to stay out of trouble in post-Abramoff Washington. Gross is warning his big business clients to be extra careful about how they handle their millions of dollars in contributions to candidates for federal office. Tying those gifts even subtly to a request to take a specific action, he warns, could put both the giver and the receiver into legal jeopardy. Under this theory, for example, real-estate brokers would be prohibited from saying even tangentially that their donations are intended to protect the home-mortgage-interest deduction even though, of course, they are.

As a result, Gross and his team at Skadden are looking more minutely than ever at a wider variety of money-solicitation communications sent out by the political action committees they represent, and weeding out explicit language. Whenever the lawyers see wording that even suggests what the PACs want in return for their donations, they recommend that the offending text be removed. "I don't say that any of these things are legally actionable," Gross says. Yet he edits them out anyway. "I've had to get a new supply of red ink," he says.

These retrenchments are minuscule compared to the burgeoning reassessment of campaign giving, which is the biggest potential alteration that Abramoff could bring to town. If 2006 brings a slew of indictments against members of Congress and their aides, and those charges produce an uprising at the ballot box in November, almost anything can happen. Lawmakers could decide not to hold as many lobbyist-sponsored fundraising events, especially in Washington, for fear of bad publicity (and possible indictment against themselves) and raise much more of their money from small-dollar Internet-based sources and from their own constituents back home. So much of what denizens of the capital do revolves around raising money that if the Abramoff affair even slows campaign donations a little, Washington could be transformed a lot.

The Abramoff plea agreements are also sparking a reassessment among at least some public-interest groups about the best way to fight the "corrupting influence" of money in politics. For decades, such groups have poured their energies into trying to make the existing system of campaign-finance regulations and laws work better, to little avail. Now, groups like Melanie Sloan's CREW are turning increasingly to the Justice Department rather than to Congress to find redress against abuses in the campaign-finance system. Instead of spending all its time filing complaints with congressional ethics committees (which rarely act) or pressing for new lobbying laws, CREW has also been writing letters to the Justice Department seeking investigations, for example, of Republican Reps. Pete Sessions (Texas) and Jerry Lewis (Calif.) for acting too closely in concert with their donors. It thinks it has a strong chance for success there given the Abramoff cases. "Although the Justice Department has always been entitled to look at campaign contributions as bribes, it hasn't done so traditionally," Sloan said. "But now the department is making a change."

Groups for or against abortion don't just work to elect lawmakers who support their positions. They also bring lawsuits that challenge the constitutionality of, say, South Dakota's ban on abortion or California's stem-cell agency. With these suits, they hope not only to win specific battles but also to get judgments that set new legal precedents. Similarly, if groups devoted to reining in Washington's money culture really wanted to make headway, perhaps they would be wise to focus not only on pushing elected officials to change the system but also on ginning up investigations that might put lawmakers and their donors in jail and perhaps would force the courts to clarify their cloudy definitions of bribery. Money will always have a say in politics. But nowadays, its voice is deafening. Maybe the work of diligent prosecutors will soon allow average voters to be heard more often as well. ♦



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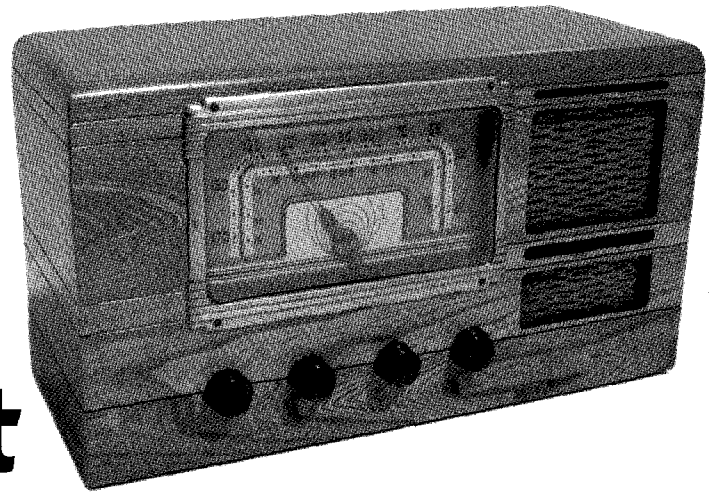
# The Fireside Chat That Roosevelt Threw Away



In a time of national crisis, FDR's advisors urged him to assume dictatorial powers. He knew better.

By Jonathan Alter

*President Bush is under criticism for asserting "inherent" presidential authority to go around the back of Congress and secretly authorize warrantless wiretaps, in violation of the 1978 Foreign Intelligence Surveillance Act. During an equally dire time in this nation's history, the winter of 1933, President Franklin D. Roosevelt was also tempted to circumvent Congress and assume extraconstitutional powers. But on his first day in office, FDR decided not to be a dictator, though many editorial pages and columnists were calling for just that.*

On Sunday, March 5, 1933, his first full day in the presidency, Franklin Delano Roosevelt awoke in a creaky narrow bed in the small bedroom of the White House family quarters he had chosen for himself. After his valet, Irvin McDuffie, helped him with the laborious task of putting on his iron leg braces and trousers, McDuffie lifted him into his armless wooden wheelchair for the elevator ride downstairs. The new president's schedule called for him to attend morning services at St. Thomas's Church with his family, host a luncheon for 20 at the White House, and then chair an emergency Cabinet meeting, where he would outline his plans to call Congress into emergency session.

None of the staff or reporters who saw him that Sunday noticed that FDR was anything other than his usual convivial self. He had stayed up past one o'clock the previous night talking with Louis Howe, his longtime chief aide and campaign strategist, while Eleanor and their five children attended the Inaugural Ball without him. The disabled president, now 51 years old, hadn't wanted to sit passively while everyone else danced; passive was not his style. Besides, he and Howe had important things to discuss, beginning with how to extricate the United States from its gravest crisis since the Civil War.

The American economic system had gone into a state of shock, its vital organs shutting down as the weekend began. On Friday, the New York Stock Exchange suspended trading indefinitely and the Chicago Board of Trade bolted its doors for the first time since its founding in 1848. The terrifying "runs" that began the year before on more than 5,000 failing banks had stripped rural areas of capital and now threatened to overwhelm

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**Jonathan Alter** is a *Newsweek* columnist and a *Washington Monthly* contributing editor. This article is adapted from his forthcoming book, *The Defining Moment: FDR's Hundred Days and the Triumph of Hope* (Simon & Schuster).



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Photograph courtesy of The Franklin Delano Roosevelt Library and Museum.

American cities. At dawn on Saturday, only a few hours before FDR's swearing in, the governors of New York, Illinois, and Pennsylvania signed orders closing the banks in those states indefinitely, which meant that 34 out of 48 American states, including the largest ones, now had no economic pulse. Each state's closure had its own financial logic, but collectively they proved merciful. Without them, Saturday morning would have brought even more ruinous bank runs, with legions of depositors descending on their banks in desperation at the very moment the new president took the oath of office.

The outgoing president, Herbert Hoover, was on his way back to California, a study in failure. As late as 1 a.m. on Inauguration Day, he was still haggling with FDR on the telephone about the banking crisis. In late morning, they rode in uncomfortable silence to the Capitol. Hoover's brilliant understanding of complex issues had brought him and the country nothing. For more than three years, since the aftermath of the stock market crash, he had been sullen and defensive as disease spread through the American economy.

As frightening as life had become since the Great Depression began, this was the bottom, though no one knew that at the time. The official national unemployment rate stood at 25 percent, but that figure was widely considered to be low. Among non-farm workers, unemployment was more than 37 percent, and in some areas, like Toledo, Ohio, it reached 80 percent. Business investment was down 90 percent from 1929. Per capita real income was lower than three decades earlier, at the turn of the century. If you were unfortunate enough to have put your money in a bank that went bust, you were wiped out. With no idea whether any banks would reopen, millions of people hid their few remaining assets under their mattresses where no one could steal them at night without a fight. The savings that many Americans had spent a lifetime accumulating were severely depleted or gone, along with 16 million of their jobs. When would they come back? Maybe never. The great British economist John Maynard Keynes was asked by a reporter the previous summer if there were any precedent for what had happened to the world's economy. He replied yes, it lasted 400 years and was called the Dark Ages.

Late in 1933, a prominent journalist, Earle Looker, peered backwards several months to assess the Hobbesian stakes as FDR assumed office: "Capitalism itself was at the point of dissolution. Would men continue to work for profit as our forefathers understood it and as our people now understand it? This was a real question, for money was now useless. Would it be necessary soon to organize our families against the world, to fight, physically, for food, to keep shelter, to hold possessions?"

Even two generations later, the terror remained indelible for those who experienced it. "It was just as traumatic as Pearl Harbor or the destruction of the Twin Towers," the scholar Richard E. Neustadt, who was a teenager at the time, recalled. "It wasn't on television, but the banks were failing everywhere, so you didn't need television to see what was going on."

Roosevelt's Inaugural Address had begun the process of restoring hope, but not everyone caught the new mood right away. The press coverage that morning largely downplayed or ignored FDR's line: "The only thing we have to fear is fear itself." *The New York Times*



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and most other newspapers relegated the line to their inside pages, while focusing instead on the vivid wartime allusions he employed five times during his speech—martial metaphors that suggested that there was, in fact, plenty to fear after all. The greatest applause from the large crowd on the east side of the Capitol came when Roosevelt said: "I shall ask Congress for the one remaining instrument to meet the crisis: broad executive power to wage war against the emergency, as great as the power that would be given to me if we were in fact invaded by a foreign foe."

The United States had not been "invaded by a foreign foe" since 1812, but this felt like it. Arthur Krock of the *Times* compared the mood in Washington on Inauguration Day to "a beleaguered capital in wartime." For the first time since the Civil War, armed men patrolled the entrances to federal buildings, while machine gunners perched on rooftops. Editors knew that the world war, just 15 years in the past, had concentrated great power in the hands of Woodrow Wilson's government. To them it looked as if FDR were proposing the same thing. And so the approving headline, "For Dictatorship If Necessary," ran in the *New York Herald-Tribune* on March 5, with similar notes stuck in the Inauguration coverage of other major papers.

Exactly what was "necessary"? No one knew, including Roosevelt. Even before being sworn in, he had decided on a federal bank "holiday" (a festive term he preferred to Herbert Hoover's "moratorium") to give the people who now ran the country a few days to figure out what to do. Then what? Should he assume wartime authority on a temporary basis? Call out the Army to protect banks and maintain order? Mobilize veterans? Unrest was already growing in the farm belt, where mobs had broken up bankruptcy auctions. Four thousand men had occupied the Nebraska statehouse and five thousand stormed Seattle's county building. The governor of North Carolina predicted a violent revolution, and police in Chicago clubbed teachers who had not been paid all school year. Everywhere, bank runs threatened to turn violent. By the Inaugural weekend, police in nearly every American city were preparing for an onslaught of angry depositors. At least some were certain to be armed.

With so many banks involved, the U.S. Army—including National Guard and Reserve units—might not be large enough to respond. This raised the question of whether the new president should establish a makeshift team of veterans to enforce some kind of martial law. The temptation must have been strong. It hardly seems a coincidence that FDR decided that the first radio speech of his presidency would be specially addressed to a convention of the American Legion, the million-member veterans' organization co-founded after World War I by his fifth cousin, Theodore Roosevelt Jr.

The short speech was scheduled for that Sunday evening at 11:30 EST, with all radio networks carrying it live across the country. In preparing for the broadcast, someone in the small Roosevelt inner circle offered the new president a typewritten draft of suggested additions that contained this eye-popping sentence:

"As new commander-in-chief under the oath to which you are still bound I reserve to myself the right to command you in any phase of the situation which now confronts us."

This was dictator talk—an explicit power grab. The new president was contemplating his "right" to command World War I veterans—mostly men in their late 30s—who had long since reentered civilian life. It was true that they had sworn an oath to the United States on entering military service and that the 1919 founding document of the American Legion pledged members to help "maintain law and order" and show "devotion to mutual helpfulness." But the commander in chief had no power over them. Here Roosevelt would be poised to mobilize hundreds of thousands of unemployed and desperate men by decree, apparently to guard banks or put down rebellions or do anything else he wished during "any phase" of the crisis, with the insistence that they were duty-bound to obey his concocted "command."

That word—"dictator"—had been in the air for weeks, endorsed vaguely as a remedy for the Depression by establishment figures ranging from the owners of the *New York Daily News*, the nation's largest circulation newspaper, to Walter Lippmann, the eminent columnist who spoke for the American political elite. "The situation is critical, Franklin. You may have no alternative but to assume dictatorial powers," Lippmann had told FDR during a visit to Warm Springs on February 1, before the crisis escalated. Alfred E. Smith, the Democratic nominee for president in 1928, recalled with some exaggeration that "during the World War we wrapped the Constitution in a piece of paper, put it on the shelf and left it there until the war was over." The Depression, Smith concluded, was a similar "state of war." Even Eleanor Roosevelt, more liberal than her husband, privately suggested that a "benevolent dictator" might be what the country needed. The vague idea was not a police state but deference to a strong leader unfettered by Congress or the other inconveniences of democracy. Amid the crisis, the specifics didn't go beyond more faith in government by fiat.

Within a few years, "dictator" would carry sinister tones, but—hard as it is to believe now—the word had a reassuring ring that season. So did "storm troopers," used by one admiring author to describe foot soldiers of the early New Deal, and "concentration camps," a generic term routinely applied to the work camps of the Civilian Conservation Corps that would be established by summer across the country. After all, the Italian Fascist Benito Mussolini, in power for a decade, had ginned up the Italian economy and was popular with everyone from Winston Churchill to Will Rogers to



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Lowell Thomas, America's most influential broadcaster. "If ever this country needed a Mussolini, it needs one now," said Sen. David Reed of Pennsylvania, outgoing President Hoover's closest friend on Capitol Hill. The speech draft prepared for FDR brought to mind Mussolini addressing his Black-Shirt followers, many of whom were demobilized veterans who joined Il Duce's private army.

Roosevelt came to office just as the appetite for strong leadership seemed to be surging worldwide. For Americans, German chancellor Adolf Hitler was worrying but new, his leadership to be ratified in a legal election held across Germany that very day, March 5. While Hitler was already seen in the United States as a reckless buffoon, almost no one in the country yet focused on the threat posed by fascism.

The most powerful American publisher, William Randolph Hearst, seemed to favor dictatorship. The Hearst empire extended to Hollywood, where Hearst that winter had personally supervised the filming of an upcoming hit movie called "Gabriel Over the White House" that was meant to instruct FDR and prepare the public for a dictatorship. The movie's hero is a president played by Walter Huston who dissolves Congress, creates an army of the unemployed, and lines up his enemies before a firing squad. FDR not only saw an advance screening of the film, he offered ideas for script rewrites and wrote Hearst from the White House that he thought it would help the country.

"There was a thunder in the air as when the Fascisti marched upon Rome," wrote one journalist close to the Roosevelt camp of the fevered climate that chilly March weekend. "It was the same tension that quivered about the Kremlin at the beginning of the Five Year Plan. Insiders thought there was to be a peaceful revolution involving a dictatorship."

FDR knew the consequences of failing to seize the day. A visitor—unidentified in the press—came to him not long after the Inauguration and told him, "Mr. President, if your program succeeds, you'll be the greatest president in American history. If it fails, you will be the worst one." "If it fails," the new president replied, "I'll be the last one."

This sounds melodramatic to Americans in the 21st century, when freedom is flourishing in so many parts of the world. But during the 1930s, democracy was on the run, discredited even by subtle minds as a hopelessly cumbersome way to meet the challenges of the modern age. At the time, history offered little precedent for a leader taking power amidst a severe military or economic crisis without seizing more authority for himself. The few republics ever established—from ancient times to modern Europe—had eventually bent before such demands. So did the American system. During the Civil War, Abraham Lincoln suspended habeas corpus and twisted the Constitution in order to save the nation.

So panicked were the members of American's economic elite about the banking crisis that on FDR's first day in office more than a dozen of them—prominent bankers, congressional committee chairmen, members of the Federal Reserve Board, and the top Treasury officials of both administrations—met and seemed to emerge with a consensus that Roosevelt should assume dictatorial control. That afternoon Adolph Miller, a member of the Federal Reserve, suggested a single law that would put "the whole powers of the government in the hands of the President." He argued that "This is a war. Don't bother with the details. It isn't possible to formulate a plan of legislation." Fed Chairman Eugene Meyer agreed; FDR's Treasury Secretary William Woodin revealed that the idea had already carried farther than they knew. The governors of many of the 48 states were coming to Washington the next day, and Woodin told the group confidentially that a committee of them was set to endorse the idea of the president assuming full wartime powers.

**The United States had not been** "invaded by a foreign foe" since 1812, but this felt like it. Arthur Krock of the *Times* compared the mood in Washington on Inauguration Day to "a beleaguered capital in wartime." For the first time since the Civil War, armed men patrolled the entrances to federal buildings, while machine gunners perched on rooftops.

But on March 5, 1933, an astonishing thing happened—or more precisely, did not happen. The draft of that American Legion radio address was destined not for the ears of millions of veterans and other Americans, but for nothing more than the speech files of the Roosevelt Library, where it lay unexamined for more than 70 years. The five-minute speech that FDR delivered that night built on the military tone of the Inaugural. He argued for the "sacrifice and devotion" of wartime and noted that it was "a mistake to assume that the virtues of war differ essentially from the virtues of peace." But there was no hint of the need for a private army.

No one knows who wrote the unused draft or why FDR discarded the suggested additions, but something inside the man kept him from moving in an extra-constitutional direction. Some combination of personal and democratic conviction set him on a different course, at once more traditional and bold. This most pragmatic of modern American presidents sensed the unworkable



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nature of untrammeled power, even in the hands of the only person he completely trusted—himself.

Instead of mobilizing a militia, FDR had mobilized a group of policy specialists, many of them Hoover holdovers, a few days before to produce a workable plan to solve the banking crisis. While the economic elite met and urged a more authoritarian approach, this smaller group of men, working round the clock and sleeping on couches, emerged with a three-pronged plan to save the nation's banking system.

First, because the president had no explicit power to close banks, they urged him to use the 1917 Trading with the Enemy Act, an obscure wartime provision that was intended to prevent gold transfers that could help the Germans. The original wartime measure was temporary and had long since expired. But when economic conditions worsened in 1932, a clever legislative draftsman at the Hoover Treasury had dusted off the bill and taken the legally questionable step of changing the "implementation language" to make the 1917 act permanent.

This was probably illegal, but the Hoover men were frightened and not in the mood for legal niceties. FDR agreed, and invoked the Trading with the Enemy Act to declare a national bank holiday. Second, the group, under the leadership of Hoover's Treasury Secretary Ogden Mills, developed banking reform legislation; FDR called Congress into special session to pass it.

The legislation distinguished three classes of banks: A, B, and C. The "A" banks were basically healthy and could be reopened quickly; the "B" banks were shaky but could open in the weeks ahead if they were bolstered; and the "C" banks were insolvent and would stay closed unless they were reorganized. But even the "C" class banks were treated gingerly. To take the sting off, they decided to call the receivers of those banks "conservers."

When FDR adopted the Mills plan (without ever acknowledging its author), many progressives and radicals felt a rare moment for radical reform had been missed. Sen. Bronson Cutting of New Mexico wrote with "a sick heart" about the failure to nationalize the banks when the opportunity arose, calling it "President Roosevelt's greatest mistake." It could have been accomplished, Cutting later said, "without a word of protest." Sens. Robert LaFollette Jr. of Wisconsin and Edward Costigan of Colorado paid a call at the White House to press the point, arguing that many other countries had nationalized banks. But they found the president firmly opposed to putting so much of the nation's wealth in the hands of the state. He always believed banks should be in private hands, he told them, even when they had just about wrecked the country.

The third element of the plan was designed by the president himself. On March 8, he hit on a way to retrieve most of the gold that had seeped out of the banks in the previous weeks. At his direction, the Fed announced that it would publish a list of those who had withdrawn gold coins or bullion since February 1 and not returned the gold as of Monday, March 13. Suddenly, sheepish investors began to form lines at banks, determined to avoid having their names printed in the newspapers as unpatriotic hoarders. By Friday, March 10, an estimated 4,000 people had passed through bank lines in New York City alone, bringing back $300 million in gold and gold certificates. By then, with the Emergency Banking Bill completed and the fiscally conservative budget bill on the way, investor confidence was beginning to stir again.

Moley wrote in 1939 that the key moment of the Hundred Days was the rescue of the banks. "Capitalism," he concluded, "had been saved in eight days"—without the presidential assumption of dictatorial powers.

In the days ahead, FDR moved far from where that unused American Legion draft would have taken him, passing the word on Capitol Hill that he did not believe in a constitutional dictatorship and asking his friend Felix Frankfurter to tell Lippmann to stop hawking dictatorship and disrespect of Congress in his columns. It was not as if Roosevelt was letting the cup pass; for the next 12 years, he would fully exploit the authority of the presidency, sometimes overreaching to the point where his enemies accused him of becoming a dictator. He would flirt with fascistic (or at least corporatist) ideas like the National Recovery Administration and in 1937 try to pack the Supreme Court. But even then, he would do so in the context of democracy, without private armies or government-by-decree. Even at his worst, he would eventually submit his schemes for the approval of Congress. Instead of coercion, he chose persuasion; instead of drawing the sword, he would draw on his own character and political instincts. He would draw, too, on the subconscious metaphor of his own physical condition. Although it was only rarely mentioned in the press, the American people knew at the time that he had polio (though not the extent of his disability) and it bound them to him in ways that were no less powerful for being unspoken: If he could rise from his paralysis, then so could they.

The deeper questions would take time to plumb. If character was to be FDR's weapon for confronting the crisis, how was it forged and then deployed? Which complex combination of temperament, background, and experience allowed Roosevelt to bring off his act in his famous Hundred Days? Whatever the verdict of history on his expansion of government and particular policy prescriptions, this much is clear: Rather than succumbing to dictatorship or chaos, the United States underwent a "laughing revolution," as a reporter covering FDR put it, the projection of one man's faith in his own performance and in the capacity of democratic institutions to confront the terror of the unknown.

In March of 1933, the new president did not have to mobilize aging members of the American Legion under martial law. Franklin Roosevelt mobilized himself and his latent talent for leadership. He found his voice, and his voice defined America. ♦



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# INVESTI-GATE

## What's really at stake in the November elections.

Photographed on April 19, 2006 by Sam Kittner for *The Washington Monthly*.

**By Zachary Roth**

There are plenty of reasons why George W. Bush managed to eke out a 51 percent re-election victory in 2004: John Kerry was a lousy candidate; Iraq had not yet descended into civil war; and anti-gay-marriage ballot initiatives in several swing states helped bring out conservative voters. But other, less-discussed factors also played a role.

In November 2004, voters didn't know that Bush had personally been warned that a key piece of evidence he had used to make the case for war in Iraq—that Saddam's aluminum tubes were being used to process uranium—was likely incorrect. They didn't know that the president's campaign had received hundreds of thousands of dollars through a corrupt lobbyist named Jack

**Zachary Roth** is an editor of *The Washington Monthly*.



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Abramoff, and that Bush had hired one of Abramoff's cronies, David Safavian, as the federal government's procurement czar. They didn't know that the president and vice president had ordered the leaking of classified—and highly misleading—information to discredit the whistle-blowing former ambassador Joe Wilson, even while Bush was declaring his intention to fire the leaker. They didn't know that the president had authorized a massive and probably illegal domestic wiretapping operation. They didn't know that an increasing number of U.S. combat generals in Iraq thought Bush's defense secretary was incompetent and ought to be fired.

The public was unaware of these facts—all of which were true prior to the 2004 election—for one overriding reason: Congress, the branch of government constitutionally empowered to provide the oversight that might have uncovered them, wasn't looking very hard. This is hardly surprising, considering that both Congress and the White House are controlled by a Republican Party that has made ruthless partisan unity its guiding strategy. (We only know these things now in large part because of the somewhat-belated efforts of journalists, whistle-blowers, and non-partisan government prosecutors.) Nor should it be a shock that now, in the run-up to the 2006 midterm elections, the party's top elected officials continue to follow the script that worked so well for them in 2004: Keep a lid on investigations.

Remember how Senate Intelligence committee chairman Pat Roberts (R-Kan.) delayed until after the 2004 elections any investigation into how the administration might have misused intelligence in the run-up to the Iraq war? Well, in late April he announced his intention to again postpone that still-unfinished investigation, presumably until after the 2006 elections. In March, his committee also rejected, on a straight party-line vote, a Democratic call for a probe of the administration's wiretapping program. Senate Republicans have blocked the Armed Services committee from hearing the testimony of the retired generals who have publicly called for Rumsfeld's resignation. And despite continued public frustration with the complex, snafu-prone Medicare drug program—latest gem: One in five seniors on the program have wound up paying *more* for their medicines—GOP congressional leaders have apparently seen nothing that warrants even cursory scrutiny.

The Republican Congress has specialized in Potemkin hearings. The Judiciary committee under Sen. Arlen Specter (R-Penn.) made a show of examining the wiretapping program, but when the committee asked for testimony from former attorney general John Ashcroft, and his deputy, James Comey—both of whom, according to *Newsweek*, had expressed serious reservations about the program's legality—it was politely informed by the Justice Department that neither man "would be in a position to provide any new information." Rather than use his subpoena power, Specter left it at that. In May 2004, Sen. John Warner (R-Va.), chair of the Armed Services committee, loudly vowed to get to the bottom of the Abu Ghraib torture scandal, but called it a day after a few hearings, despite clear evidence that senior military and civilian officials were implicated. Sen. John McCain (R-Ariz.) used his Indian Affairs committee to look into how Jack Abramoff bilked his tribal clients, but pulled up short when the evidence began to point to administration officials and party operatives like Grover Norquist, whose support McCain will need in the 2008 Republican presidential primaries. The Homeland Security committee, under Sen. Susan Collins (R-Maine) stirred itself to investigate the disastrous federal response to Hurricane Katrina, but refused to look closely at the fatally-flawed White House decision-making process, and blocked Democratic efforts to subpoena White House emails.

The Republican Congress's extreme reluctance to investigate the Bush administration is hardly a secret. Some lawmakers even brag about it. In July 2004, Rep. Ray LaHood (R-Ill.) proudly declared: "Our party controls the levers of government. We're not about to go out and look beneath a bunch of rocks to try to cause heartburn." Even Virginia Thomas—wife of Clarence—who, as a top aide during the '90s to Majority Leader Dick Armey, ran the fiercely partisan Republican effort to use Congressional committees to investigate and harass the Clinton administration, thinks today's Congress has fallen down on the job. "There's a lot of pressure on Republican members [to avoid oversight] with the Republican administration," she says. "It's as if it's not civil."

Congress's disinclination to hold President Bush accountable has few historical parallels, say congressional experts. "In our lifetimes, I can't recall a greater failure on the part of a Congress to do serious oversight," says Norman Ornstein, a congressional scholar at the conservative American Enterprise Institute. "The attitude of the Republicans in Congress has been: Avoid embarrassing the president at all costs."

This is not the approach the GOP Congress took when Bill Clinton occupied the Oval Office. Since 1997, the House Government Reform committee has issued over 1000 subpoenas related to allegations of misconduct involving the Clinton



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administration or the Democratic party—compared to just 15 related to Bush administration or Republican abuses. The seemingly endless probes of the Clinton administration turned up little in the way of corruption, and stymied the Republican revolution: In the 1998 midterm elections, with the Lewinsky scandal in the news, Democrats picked up seats in Congress.

But those investigations left a residue of ill will that Republicans have cleverly turned to their own advantage. In a stunning display of chutzpah, GOP leaders are now exploiting voters' fears of endless partisan investigations—fears that they themselves created with their own behavior in the '90s—to caution with faux solemnity that Democrats, if given control of one or both houses of Congress, would impeach the president and plunge the nation into turmoil. In a recent fundraising email, RNC chairman Ken Mehlman warned that Democrats "will censure and impeach the President if they win back Congress."

The press corps has been quick to take the bait. "If Democrats win in the midterm elections in November, will the Democrats in Congress move to impeach this president?" Norah O'Donnell breathlessly asked DNC chair Howard Dean on MSNBC's "Hardball" in April. Dean's response suggests how deeply this line of attack has Democrats spooked: He hedged, assuring O'Donnell that impeachment "is going to come pretty low on the list," and quickly pivoted to talk about jobs and port security. And Dean is the Democrats' attack dog! Other party leaders want even less to do with the question, for fear of giving the Republicans ammunition to argue that a Democratic House would mean endless partisan rancor.

With pundits and Republicans alike crying "impeachment!" it's no wonder that Democrats aren't eager to advertise the fact that capturing Congress would allow them to pursue investigations. The tragedy is that a full accounting of the Bush years is what the country most needs, to put an end to the cycle of lies and cover-ups, and perhaps even fix some disastrous policies, from Medicare to Iraq. Moreover, the notion that it's impeachment-or-bust—that an opposition party conducts investigations and holds hearings only to punish or embarrass the White House—is a product of recent history. The aggressive partisan investigations of the 1990s were an aberration. For most of American history, lawmakers have held presidents to account regardless of party affiliation. This tradition of real bipartisan oversight has allowed government to uncover mistakes, keep itself honest, and move the country forward. It's been pretty good politics, too. And it could be again.

## From Whisky Ring to Monica

To find a historical moment even remotely akin to the present, one has to go all the way back to the presidency of Ulysses S. Grant. During all but the last two years of the former general's notoriously corrupt Republican administration (1869-77), Congress was also in Republican hands. During those six years, GOP lawmakers failed to look into several executive branch transgressions—most famously the Whisky Ring scandal, in which federal officials were siphoning off funds from taxes on distilleries and using them for Republican campaign activity. It was only through the efforts of the treasury secretary, William Barstow—who was motivated in part by presidential ambitions—that the extent of the scandal was brought to light.

During subsequent periods when one party controlled both elected branches, lawmakers generally did a better job of fulfilling their oversight responsibilities. It was a progressive Republican senator, Robert LaFollette Sr., who in 1922 kicked off the investigation into the Teapot Dome scandal, in which President Harding's interior secretary ultimately went to prison for taking bribes from oil companies in return for no-bid energy leases on public lands. Having investigated their own party's administration, congressional Republicans wound up gaining House and Senate seats in the next election.

Democrats, too, have gone after their own. In 1941, a little-known senator named Harry Truman led a congressional investigation into waste, fraud, and mismanagement in military procurement. His effort helped save the government $18 billion, landed him on the cover of *Time*, and propelled him to the vice presidency in the administration he had investigated. And in 1966, amid mounting public opposition to the war in Vietnam, Sen. William Fulbright, the Democratic chair of the Foreign Relations committee, held high-profile hearings challenging LBJ's conduct of the campaign. Though they weren't enough to keep the White House in Democratic hands after the 1968 presidential election, Fulbright's hearings helped constrain the president's freedom of action on the war, and became a point of pride for a generation of Democrats.

But it's not that the Republicans who run today's Congress object to serious investigations, of course. They just object to serious investigations of Republicans. When the GOP regained control of Congress after the '94 midterms, it launched an aggressive effort—about which it was



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largely open—to use congressional committees and investigations as a partisan political tool, designed to thwart the Clinton administration's agenda and damage the president politically. A memo sent "on behalf of the House leadership" by two Republican congressional power-brokers, Reps Jim Nussle and Bob Walker, directed committee chairs to search their investigative files for "examples of dishonest [sic] or ethical lapses in the Clinton administration," and to forward them to Virginia Thomas's office "for determining the agenda." Defending the decision to task Thomas, a top leadership aide, with compiling politically-damaging information on the opposing party, one House committee staffer told *Roll Call*: "It takes a full-time person to make sure we get all the Clinton scandals exposed."

The Clinton administration provided Congress with more than a million pages of documents in response to investigative inquiries—including, at one point, the White House Christmas-card list. But voters quickly came to see the effort, which culminated with the impeachment of the president, as partisan and vindictive, and it backfired. House speaker Newt Gingrich left office in disgrace, while Clinton finished his second term with lofty approval ratings.

Under Clinton, then, a partisan Republican Congress conducted full-bore investigations into everything. Under Bush, the partisan Republican Congress has conducted full-bore investigations into nothing. That GOP attitude is unlikely to change unless the balance of power in Washington changes. Even as the president's poll numbers plunge into the low 30's, jeopardizing congressional Republicans' re-election chances, they've not shown any inclination to conduct serious hearings on the administration's misdeeds. And should Congress remain in Republican hands, they certainly won't become more eager to investigate the Bush administration (and themselves). Rather, they'll breathe a sigh of relief, proclaim their "accountability moment" over, and congratulate each other on their effective strategy of shutting down investigations.

## Building a better investigation

The only real chance, then, that Congress will uncover the truth of what's happened in Washington during the Bush years will come if Democrats to win in November—a fact that puts the mainstream press in an awkward situation. While mainstream journalists, for obvious reasons of professional interest, generally support openness and increased access to information, they feel they cannot be seen as siding with one political party over another. Should the Democrats take the House, the press, desperate to stick to a "neutral" storyline, will frame the issue of post-election investigations as being not about accountability and access to information, but about political payback. Hence the current focus on impeachment.

> In a display of chutzpah, GOP leaders are now exploiting voters' fears of endless, partisan investigations—fears that they themselves created with their own behavior in the '90s—to caution with faux solemnity that Democrats, if given control of one or both houses of Congress, would impeach the president and plunge the nation into turmoil.

So what will the Democrats really do if they win the House? I spoke to a broad range of Beltway Democrats, both inside and outside Congress, and got, essentially, three different answers. A considerable number seem disinclined to press their advantage if given the chance. "When you do oversight, ultimately, the press is the judge of your credibility," one top Democratic committee staffer told me. Using investigations to delve too deeply into the past, or to settle old scores, he argued, would be "world-class stupid." He called the deception over the cost of the Medicare drug bill "old news." Lanny Davis, who served as White House counsel to President Clinton, went even further, arguing that any use of Congressional investigations that's not directly focused on solving the public's problems will backfire on Democrats. "I could come up with a hundred investigations, and 90 percent of the American public would say: 'Can you please do something about our public school system?' And: 'Would you please tell me why we're not energy-independent enough?' And: 'Would you please get us out of Iraq and make us safe from terrorism?'" he told me. "I don't care about digging up whether Bush lied or not, or whether they manipulated evidence or not. That's just playing gotcha."

Other liberal insiders advise the opposite.



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Democrats, they say, should do to Republicans what Republicans did to them in the '90s: design investigations for maximum political impact, and make no effort to give them an even nominal ly bipartisan gloss. "The public never understands what a bipartisan hearing is, so you don't really need that," Melanie Sloan, of Citizens for Responsibility and Ethics in Washington, argued. "The Republicans haven't shown a lot of interest in bipartisan hearings. They don't hold hearings. You don't need the Republicans."

But for the most part, the Hill Democrats who matter the most—those who would be sitting in committee chairs—seem to agree on what their strategy would be if given the chance. They'll hold aggressive investigations and issue plenty of subpoenas, but they'll also find ways to reach across the aisle whenever possible. "I don't think it's payback, but if people purposely manipulated intelligence or lied to the American people, or targeted whistleblowers, I think that's just getting to the truth," said another top Democratic House committee staffer. "I just think it's stronger and more credible if it's bipartisan."

That strategy may sound naïve and high-minded, but history suggests it's the right approach, even when the crimes of the White House are indisputable. Watergate offers a model for how Democrats might attract Republican support, and use it to strengthen, rather than weaken, their investigations' impact. The Senate hearings were conducted by Sam Ervin, a conservative Southern Democrat who declared at the investigation's outset that he found it "simply inconceivable" that the president was involved. The House Judiciary committee, for its part, allowed its minority Republican members to rewrite the articles of impeachment when they balked at the original version produced by Democratic lawyers. The strategy paid off, helping to convince the committee's "Fragile Coalition"—a group of wavering Republicans and Southern Democrats, all of whom represented districts that had overwhelmingly backed Nixon in '72—to vote for impeachment. It was the support of the Fragile Coalition that made it impossible for the White House to dismiss impeachment as a partisan witch-hunt, and that ultimately forced Nixon to resign.

Similarly, during the 1987 Iran-Contra investigation, congressional Democrats took pains to reach out to Republican members, persuading three GOP senators to sign onto a report that blasted President Reagan for "secrecy, deception, and disdain for the law." This bipartisan verdict ultimately forced Reagan to jettison his most hawkish advisers, and to recognize the need for a more conciliatory approach to foreign policy. The rapprochement with the Soviet Union—underway since Gorbachev's ascension to the premiership in 1985—intensified, and ultimately contributed to the Soviet Union's breakup in 1990. Princeton historian Sean Wilentz goes so far as to argue that the Iran-Contra hearings helped to end the Cold War.

To be sure, the level of partisan bitterness in Washington is much higher then it was even in the '80s, and Democrats who have tried to work in a bipartisan manner have been taken to the cleaners in recent years. But there's reason to think that once in power, Democrats will be able to attract cooperation from some Republicans. The Bush administration's combination of arrogance, secrecy, and disregard for Congress has alienated more than a few GOP lawmakers. Many have shown an impulse to challenge the administration, from old-guard moderates like Rep. Christopher Shays (R-Conn.) and Sen. Richard Lugar (R-Ind.) to newer independent-minded conservatives like Sen. Lindsey Graham (R-S.C.) and Rep. Jeff Flake (R-Ariz.). That impulse has so far been largely kept in check by GOP congressional leaders, who have used the power of the majority—committee assignments, prospects of legislative accomplishments, and old-fashioned pork—to keep their members in line. But if Democrats control the House, they'll be able to use many of those same rewards to lure wavering Republicans into cooperating. The leadership agrees. "I think you will see Republicans participate," House Minority Leader Nancy Pelosi recently told a group of liberal journalists. The prospect of a thorough accounting of the Bush years is what keeps the president and his team up at night. "If we don't keep Congress, there won't be a legacy," a presidential adviser recently told a reporter for *Time*. "The legacy will be investigations."

Democrats might wish they could avoid talking about their investigative plans. But if they do, the press and the GOP will raise the issue for them, and they'll frame it around the prospect of impeachment. So Democrats might as well meet the challenge head on, and spend the summer making their case. Of course we'll vigorously investigate the administration if we win, they should say. And we'll do so the same way previous Democratic Congresses have investigated GOP presidents: shoulder-to-shoulder with honest Republican lawmakers willing to put country before party. The fact that the current GOP leadership chose to abandon the great American tradition of bipartisan Congressional oversight is no reason Democrats have to follow suit. Instead, they should embrace that tradition, with the faith that if they do, the president will get the legacy he deserves. ♦



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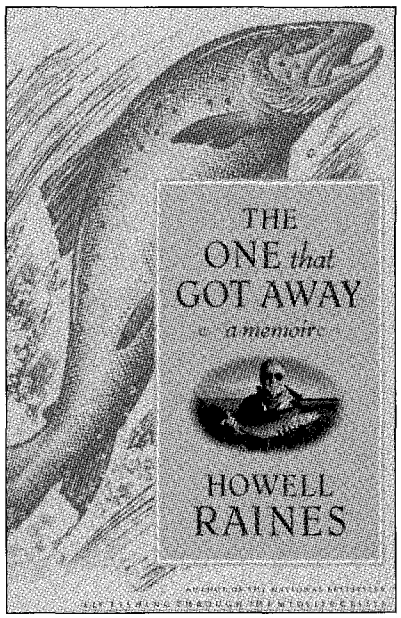
# Big Fish Story

## In Howell Raines's telling, his only mistake was caring too much.

**By James Warren**

Howell Raines, the fallen executive editor of *The New York Times*, has morphed from noun to verb. In recent episodes of "Gilmore Girls," the wonderfully droll favorite of teens and their moms on the WB Network, a coup d'état at the *Yale Daily News* brought the firing of the tyrannical undergraduate editor. She glumly referred to having been "Howell Rainesed." It's a nifty addition to the pop culture lexicon.

If Raines was watching, he came in presumably after a tranquil day of fly fishing, his passion, and presumably with no great surprise, given his obvious understanding of newspaper culture. In his latest rumination on life and journalism, *The One that Got Away*, Raines writes of how so many of us newspaper folks fall in love with our newsrooms, promising to feed the glorious beast nearly every day, only to realize far too late that all that we've really done is feed it our own lives. His high-profile dismissal three years ago from the center stage of American journalism was ignominious, but the ultimate pain was probably inevitable, whether or not a miscreant fictionalist named Jayson Blair had ever crossed his path and blown asunder what Raines concedes here was a well-orchestrated ascent to the top




**The One That Got Away: A Memoir**
By Howell Raines
Scribner, $25

of the *Times* (i.e. aggressive apple-polishing of the publisher). Raines presents his reader with a self-image of a misunderstood warrior who sought to revitalize a sclerotic institution that likens to a "eutrophic lake," a body of water so thick with algae that the supply of oxygen decreases until few other organisms can flourish.

On the surface, this memoir is not primarily about Blair and gross managerial stumblings at the top of the *Times*. For a second time, the author of *Fly Fishing Through the Midlife Crisis* (1993) produces an engaging tome on casting lines during one of life's transitions; this one a sort-of Fly Fishing Through the Pre-AARP Crisis. This promised to be hard slogging for a reviewer whose prime contact with the sea is ordering scallops at Whole Foods, but the author is a lovely and witty writer whose guiding metaphors involve the fly-fisherman's mantra of catch and release and whose ultimate thesis is the glory of unplanned circumstances, including those of a romantic variety. Whether he's along the Delaware River or straining to haul in a blue marlin during an apparently epic daylong struggle in the South Pacific, Raines can captivate even a city boy who doesn't know the difference between trolling and fly fishing, or the color of a certain billfish fly, or the strength of an Orvis Battenkill 10/11 saltwater reel. Take an area off Christmas Island in the Indian Ocean near Indonesia:

> I particularly liked these ocean flats, which were bands of shallow, protected water between the coral reef and the shore. It is an environment of great violence, beauty and motion: gulls, terns, pipers zipping by within inches of your head, angelfish and blacktip reef sharks at your feet, and always the big



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combers marching in to die in shuddering explosions against the coral ramparts of the barrier reef. Fishing those flats, with the cannonade of the waves always in your ears and the spirals of white spume leaping incessantly toward the sky, was a little like standing behind a fortified line during a battle, protected improbably from a world of violence that stretched to the horizon. In those spots, if you trained your eyes on the area where the clear water stranded off into the deeper green underbelly of the incoming waves, you'd see the most intimidating bonefish, the sovereign loners, a full yard long, which didn't need to slide into the knee-deep flats to nibble little stuff. In their passing, these fish put me in mind of what Isak Dinesen said about elephants. They moved along as if they had an appointment at the end of the world.

Getty Images

Former *New York Times* Executive Editor Howell Raines in the newsroom on April 8, 2002, with columnist Tom Friedman and Publisher Arthur Sulzberger Jr.

Nicely done, and only one of many reasons this will surely be a big hit with those who fly-fish; all the more so for those who can only dream of making it to Raines's many exotic, pricey locales worldwide. Still, I had the same feeling of unease as I did sitting in the House of Representatives press gallery in 1998 when Bill Clinton delivered his State of the Union address without mentioning the quickly-emerging Monica Lewinsky debacle. Enough of low unemployment, low inflation, decreasing crime, and the passing of Sonny Bono! Give me some sex, dear god! Thankfully, this Alabaman proves far more candid than his fellow Southerner he lambasted *ad nauseum* as the *Times*' editorial page boss—giving us a few digressions on his professional self-immolation.

What's here is less rancorous than a post-Blair screed Raines authored for *The Atlantic Monthly*, in which his anger was far too fresh, but Raines is still not fully detached from the prevailing analysis of his own demise. In sum, it goes like this: He had the smarts and *cojones* to take on and save the somnolent *Times* and was kicked in the butt by mighty, underperforming forces of the status quo and by his own virtue. Indeed, he derides the paper's "entrenched culture of indolence," its resistance to change and the languor and snobbery he claims the rest of the industry actually prefers. "If the Times gave its readers journalism that was quick, witty and creative as well as intellectually sound and serious of purpose, its example would put too much pressure on the entire newspaper industry and on media companies like Knight Ridder [obviously sold since he wrote this], Gannett and Newhouse that pride themselves on their frugal newsroom budgets." The *Times* he fed daily for 25 years presents an "environment of enormous potential and adamantine complacency," where the young are quickly transformed into young fogies and where the great gap is between daily performance (an "ossified product") and pretense to greatness.

Well, that is overstated, and downplays the paper's impressive daily achievement and arguable improvement since his exit. Yes, yes, it's got vivid imperfections. There's the inability to serve as a must-read outlet in its hometown, with the sense that covering the White House is a vastly greater priority than covering Staten Island. The paper's daily household penetration of about 7 percent in its primary New York market verges on pitiful. It needs more juice in its financial and on certain features pages. A homogeneity in section design can leave some snoozy, though there's been sharp improvement on Sunday. Its beat structure, like that at many papers, needs significant rethinking, and important areas of life, such as religion and education, are largely covered only when there's conflict to detail. If you really want to know what's going on in American classrooms, you won't find out in the pages of *The New York Times*. Still, there's probably nobody who plays in its league seven days a week, with its unmatched editorial resources and an increasingly impressive internet operation. Carping by other journalists, or



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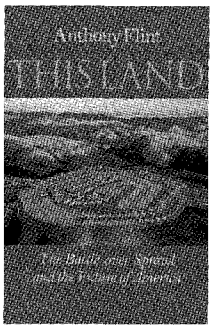
## This Land

**The Battle over Sprawl and the Future of America**

**Anthony Flint**

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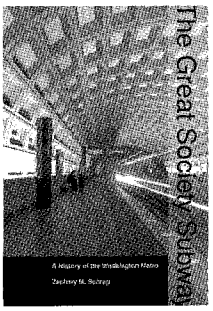
## The Great Society Subway

**A History of the Washington Metro**

**Zachary M. Schrag**




To avoid horrendous traffic, an abysmal parking situation, and bewildering street signs, residents and visitors to the nation's capital eschew the car and hop the Metro. Schrag tells the story of the Great Society Subway, from its foundings to the present day, from Arlington to College Park, from Eisenhower to Marion Barry.

*Creating the North American Landscape: Gregory Conniff, Edward K. Muller, and David Schuyler, Consulting Editors; George F. Thompson, Series Founder and Director*

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gloating over its daily page 2 corrections may just reflect pure envy. And its coverage of recent critical events, such as the war in Iraq and domestic spying, has been nothing short of admirable.

Raines is strongest when he goes macro, suggesting that newspapers' chief problem is less any of the reflexively-cited ailments—the internet, media competition, lack of civic engagement, youth more interested in IMing than reading—than the fact that many newspapers simply aren't good enough. They're cutting too many corners, fooling themselves about the perils of editorial disinvestment and woefully meager marketing. And they are not exploiting the growing numbers of educated, sophisticated consumers. They are inept in trying to "internalize the knowledge that the tastes and habits of America's mass audience were largely irrelevant to the future of newspapers.... In other words, we needed to retain as readers, not all the television viewers, just the smart ones." He cites the *Times* as Exhibit No. 1. "If you were a Manhattan resident or a Washington diplomat, it was an essential read. If you were an investment banker in Houston, a filmmaker in Hollywood or a physics professor in Oregon, you could get by without if it you had to or wanted to."

So what happened to all of Raines's great notions of saving the place he had served so ably (including the record seven Pulitzer Prizes won for 9/11 coverage on his watch as executive editor)? They went down the tubes in the Blair mess. Predictably, Raines attributes his own downfall to the high-minded ordering of an unvarnished front-page investigation into Blair's career and the failure to nab the rogue reporter (referred to at points by Raines as "the dwarf") amid ample warning signs. He discerns his only real misstep as one of political misjudgment, the calculation "that I would get enough credit for openly addressing our mistakes to survive as executive editor."

When the story ultimately was published, predicated on what he chides as a "theory of the case" which had him and his top aide being inattentive to criticisms leveled at Blair, he says he knew he was probably cooked. And when he went down, he believes he entered a singular realm whose members include John Augustus Roebling, the German-born civil engineer whose wire rope suspension bridge designs included the historic Brooklyn Bridge. Huh? Well, the theory of this seeming self-delusion arises from Roebling, whose foot was crushed by a ferry during the Brooklyn Bridge's construction, dying of tetanus precisely because he insisted his wounds not be treated with antiseptic so that he could somehow quickly return to work. Roebling thus had the "consolation, such as it is, of dying from following his own prescription instead of ignoring it."

Thus, Raines views himself as victim of his own impatience, decisiveness, and honor. In the process, he seems to have only fleetingly considered how his stock could have dropped so low during his brief, Pulitzer-laden tenure at the top that he could not survive Jayson Blair. Other editors have survived Jayson Blairs. For reasons only barely alluded to, he was like bone-dry kindling in an Oklahoma brush fire. Recalling the day he was canned by the publisher, Arthur O. Sulzberger Jr., he reveals, "I had run enough people off the paper to know that going on about why and what-ifs is tedious and undignified." Imperious managing styles can undermine even the most visionary. What goes around, comes around. Catch and release. The fish, like a newspaper, can come back to bite you.

**James Warren** is deputy managing editor of the *Chicago Tribune*.



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# Irrational Annoyance

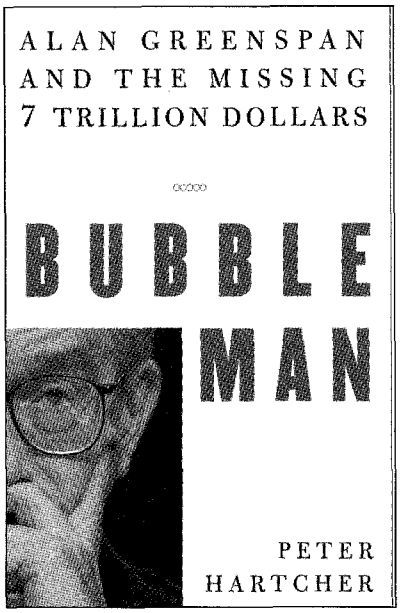
## There are many things to blame Alan Greenspan for. The '90s stock bubble isn't one of them.

**By Steven Mufson**

The god of monetary policy has become a mere mortal. Long worshiped for guiding the U.S. economy to low inflation, fast growth and low unemployment during the booming 1990s, the retired Fed chief Alan Greenspan has been chided more recently for not letting the air out of the housing market and endorsing Bush's tax cuts while bemoaning the deficits that were their predictable consequence.

Now in a new book called *Bubble Man: Alan Greenspan and the Missing 7 Trillion Dollars* Peter Hartcher, the former Washington bureau chief for the *Australian Financial Review*, condemns Greenspan for the stock market crash of 2001. Greenspan's failure to take the exuberance out of "irrational exuberance," says Hartcher, had "dreadful consequences."

Contrary to traditional thinking, Hartcher asserts that it is (or ought to be) the job of the nation's central bank to put a stop to manias in asset markets, such as stocks or housing, even if other benchmarks of economic performance—such as inflation and growth—look balanced and healthy. And if that's so, isn't Greenspan responsible for failing to take action that would have spared many investors, preserved the retirement funds of hardworking Americans and prevented the economy from suffering a recession that threw many people out of their jobs?




**Bubble Man: Alan Greenspan and the Missing 7 Trillion Dollars**
By Peter Hartcher
W.W. Norton, $24.95

The answer, I think, is mostly "no," but Hartcher makes an aggressive case to the contrary. The essence of his argument is this: Minutes of the Federal Open Market Committee meeting of Sept. 24, 1996, show that Lawrence Lindsey, then a committee member and later head of President George W. Bush's National Economic Council, asserted that there was a stock-market bubble and that the Fed should prick it. If left alone, the bubble could rival the overvalued markets in the United States in the 1920s or Japan in the 1980s. Greenspan appeared to agree about the state of the market. "I recognize that there is a stock market bubble problem at this point, and I agree with Gov. Lindsey that this is a problem that we should keep an eye on," the Fed chairman replied. He assured Lindsey that the Fed could increase margin requirements, further limiting the amount of money investors can borrow to buy stocks. "I guarantee that if you want to get rid of the bubble, whatever it is, that will do it," Greenspan said.

Just two and a half months later, on Dec. 5, Greenspan uttered the now famous words "irrational exuberance" in a speech to the American Enterprise Institute, albeit in the form of a question. "How do we know when irrational exuberance has unduly escalated asset values which then become the subject of unexpected and prolonged contractions, as they have in Japan over the past decade?"

Then he did nothing. Hartcher quotes the Nobel laureate economist Joseph Stiglitz, who in his book, *The Roaring Nineties*, asks, "If he [Greenspan] thought share prices were heading out of control—if he feared the wider effects of a bubble—



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why didn't he go ahead and act?"

In addition to raising margin requirements, the other tool at Greenspan's disposal would have been a sharp rise in short-term interest rates. That year—starting in September 1996—is a crucial period in Hartcher's account, perhaps the only time that Greenspan could have raised interest rates without harming the economy. The quarter percentage point increase in March 1997 wasn't enough; the market kept climbing. By July 1997, the Asian financial crisis had hit, and the Fed had to maintain low interest rates so that a healthy American economy would be an engine of growth for the rest of the world. Then in fall 1998, the Fed again loosened the monetary reins after the sharp fall in the value of the ruble and the collapse of Long Term Capital Management, a hedge fund whose downfall spread panic throughout the financial world. "He had missed his best and last opportunity to temper the madness by raising interest rates," Hartcher writes.

Not only did Greenspan fail to raise rates or margin requirements, but also in the late 1990s, the Fed chairman actually began to talk in glowing terms about the New Economy, conceding that technology had helped increase productivity. Hartcher writes that Green-span "surrendered in the face of political difficulty," "clasped the whole madness to his aged breast with the zeal of a convert," and "sought to hide himself in the orthodoxy of the day and the madness of the crowd."

(Perhaps to compensate for writing about a dry topic like monetary policy, Hartcher employs an occasionally overwrought prose style, writing, for instance, of the "lewdly seductive slut of greed," and compares rational market theory to cannibalism—doing so in graphic detail.)

Hartcher says that Greenspan, rather like the free-spending American consumers, mortgaged his future (his long-term legacy) for the sake of the present (his short-term popularity). Writes Hartcher, "Alone among all the many participants and enablers and bystanders and regulators in and around the Great American Bubble, Alan Greenspan had all five of the elements necessary to try to manage it in the national interest."

Hartcher does raise the fundamental question about the Green-span era. Maybe inflation and economic growth aren't the only two guideposts for the Fed. Sharp increases in stock or housing prices clearly spur people to spend more because they feel rich—however fleeting their paper fortunes may turn out to be. That spending, in turn, can distort our economy. This is something the Fed already analyzes when it's trying to predict future behavior, calculate investment, and calibrate its policies. But should it move more aggressively and target bubbles so that they don't harm the economy when they explode?

The problem with this proposition is that the size of the bubble looks clearer in hindsight. In late 1996 and early 1997, when Hartcher suggests Greenspan should have moved to tame the stock market, the market's levels were modest compared to what they were two or three years later. And perhaps Greenspan thought he had time, not realizing that crises in Asia and Russia would later prevent him from raising interest rates for fear that a slowing of the American economy would mean disaster abroad.

Because Greenspan rarely gave interviews to journalists for direct quotation, Hartcher's book contains no interview with the Fed chairman. So the closest thing we have to Greenspan's direct response (at least until his own multimillion-dollar memoir appears) is set out in the afterword my *Washington Post* colleague Bob Woodward wrote for the fall 2001 paperback edition of his Greenspan book *Maestro*. In the years since the hardcover was published, voices began to challenge the monetary pope's near infallibility. Woodward writes that Greenspan "believed he had done all he could. He had spoken in 1996 and all the stock market did was go up." Greenspan felt to speak out more about stock market dangers "would be fighting human psychology—the perceived self-interest and greed of investors." The Fed chairman thought he could have raised rates, "but that would have meant raising the Fed funds rate to something like 15 percent—an unimaginably authoritarian and inappropriate action by unelected officials such as himself."

Greenspan colleague, former Federal Reserve Board governor, Laurence H. Meyer, provides more nuance. In his memoir, *A Term at the Fed*, Meyer states that the Fed should have acted more aggressively to pop the bubble either in March 1997 or once the global financial turmoils ended. Still, Meyer offers several strong reasons for why the Fed hesitated."[H]ow confident could we be in our ability to estimate fundamental [stock market] value? And how willing should we have been to substitute our judgment for that of millions of investors?" While Hartcher says Greenspan missed an early opportunity to tighten monetary policy and stop the mania, Meyer wrote: "Were equities substantially overvalued in December 1996? At the time, I didn't think they were and I still don't."

Meyer also notes that while the stock-market bubble was concentrated in technology



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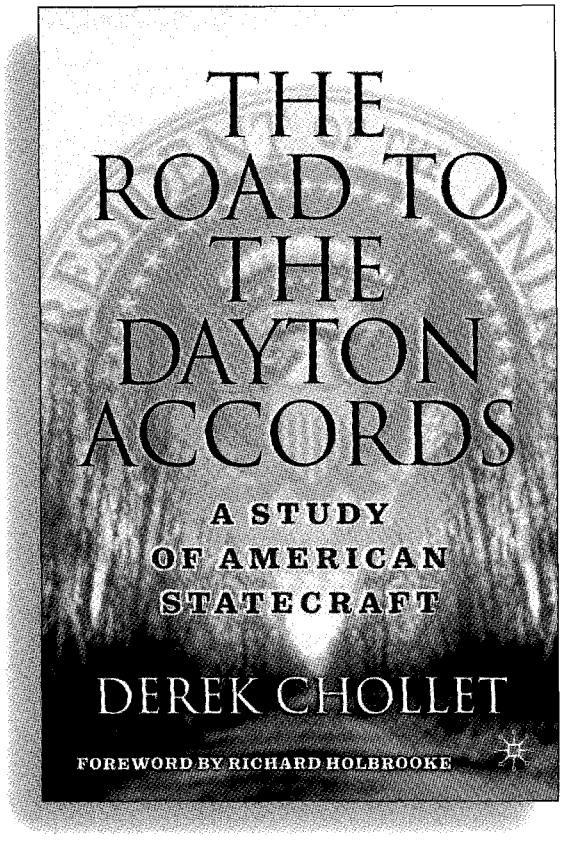


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**Derek Chollet** is a fellow in the International Security Program at the Center for Strategic and International Studies. He previously served as foreign policy adviser to U.S. Senator John Edwards and in the State Department during the Clinton Administration.

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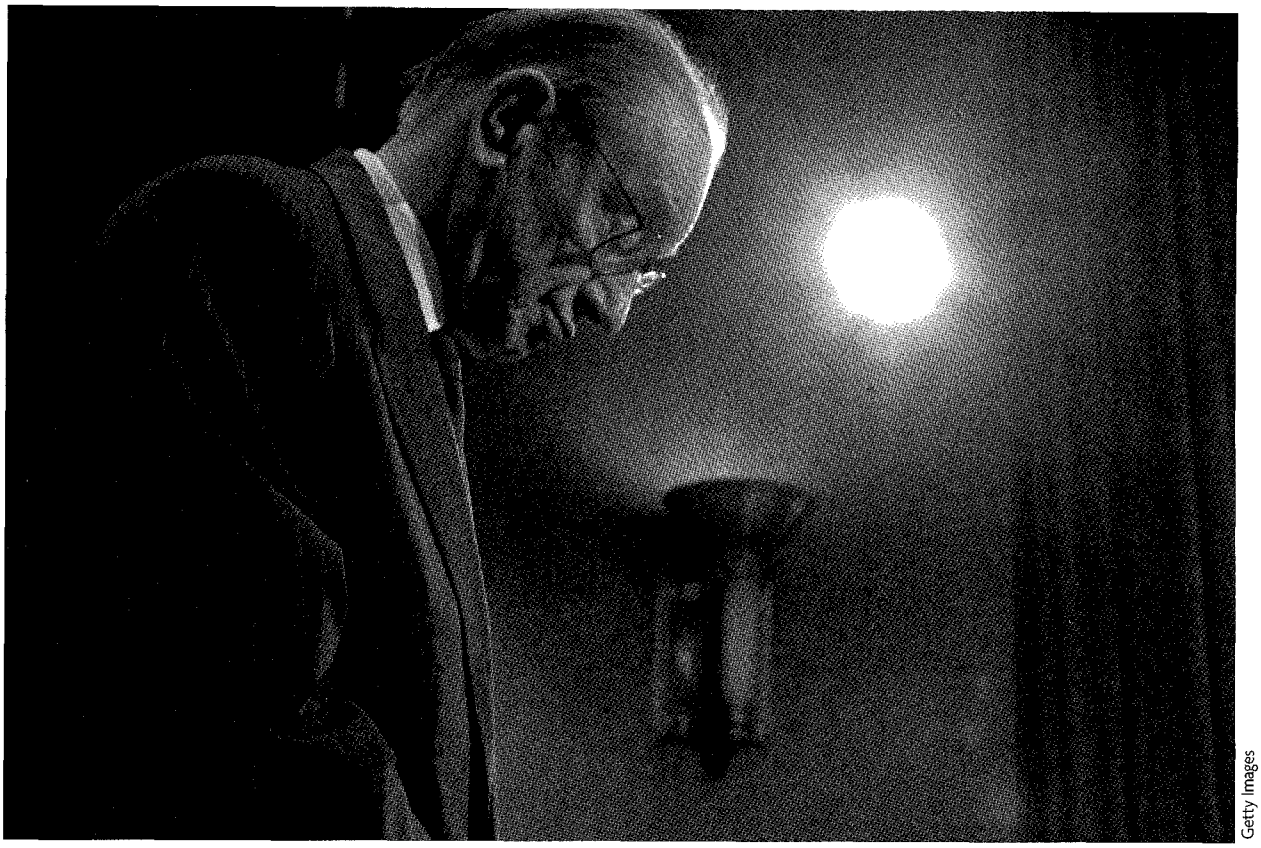

Getty Images

Alan Greenspan looks over his papers before giving testimony during a Senate hearing on April 6, 2005.

stocks, raising rates or margin requirements would hurt all companies. "The concentration of the bubble in a narrow segment of the market suggests the need for a scalpel, whereas monetary policy affects the whole market, acting more like a hammer," Meyer wrote. Raising interest rates also would have increased unemployment. Meyer said "I was more concerned with protecting jobs than with the interests of equity owners."

The biggest flaw of Hartcher's book is this: Just as Greenspan's admirers gave him more credit than he deserved, Hartcher, by blaming Greenspan for the flaws of the 1990s' economy, gives Greenspan credit for having more power than he actually possessed.

As Hartcher himself concedes, a whole host of factors other than Greenspan's failure to intervene helped create the stock-market bubble: excitement about a technological revolution, corrupt corporate executives, unprofessional accountants and unscrupulous investment bankers, lax securities regulation, and gullible investors. To blame the central bank is to minimize the responsibility other institutions, corporations, and individuals share for the economy's failings.

By overemphasizing the damage done in the market and economic downturn in 2000-2001, Hartcher skews the answer to the question of whether Greenspan or any other Fed chairman ought to use the powers of his office to protect investors from bubbles given the Fed's other, arguably bigger, responsibilities. The hot economy of the late 1990s had real benefits for many workers, especially those lower down on the income scale who didn't have any stock portfolios. And while a disproportionate chunk of economic gains flowed to America's wealthy, some job gains among middle- and lower-class Americans were real and a surprising number survived the recession.

Meyer points out that Green-span made a calculated decision to avoid slowing down low-inflation economic growth in order to pop a stock market bubble. Did Green-span make the wrong choice? If your sole concern is stock prices, perhaps he did. If your primary concern is income growth among average Americans and fighting unemployment among the poorest Americans, then arguably he didn't.

Hartcher describes some of the perils that lie ahead, but fixing them will not be the sole, or perhaps not even the principal responsibility, of Ben Bernanke or any other Fed chairman. The fault, dear readers, lies not with our central banker, but with ourselves.

**Steven Mufson** covers energy for *The Washington Post*. He covered economic policy from 1990 to 1993 and later served as the paper's Beijing bureau chief, its diplomatic correspondent and deputy editor of the Outlook section.



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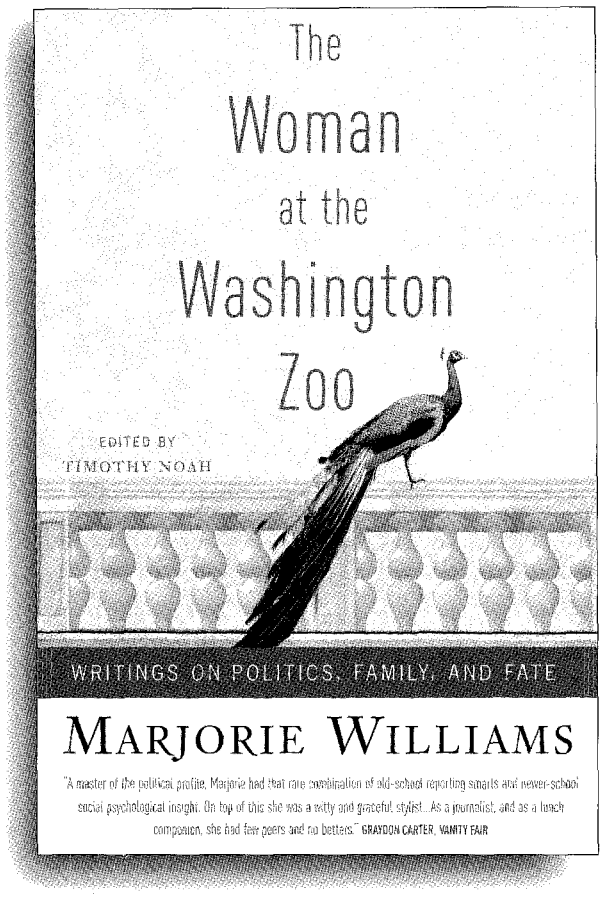
"Washington, D.C. is a city ruled by insiders, and few writers have broken through the social and public politics that govern it as eloquently as Marjorie Williams...." —PUBLISHERS WEEKLY

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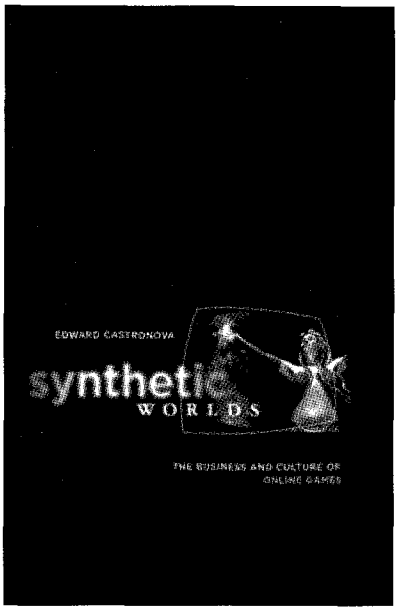
# Video Game Theory

## Why the newest U.N. member may be Norrath.

**By Chris Suellentrop**

Edward Castronova thinks the United States faces a looming emigration crisis. That's right, the problem may be going, not coming, as America's huddled masses yearn to breathe free in a mysterious land somewhere beyond the C drive. Once an unknown economics professor at an obscure university (Cal State Fullerton), Castronova has, over the past few years, become the world's pre-eminent authority—and go-to quote for reporters—on the subject of "virtual worlds," persistent online spaces where thousands of earthlings gather simultaneously. These online worlds, Castronova insists, are a new frontier, a place where millions of people will move and reside permanently. Some of them already do.

The virtual worlds Castronova refers to are gigantic multiplayer online video games, such as Everquest and World of Warcraft. In addition to buying the games off store shelves, players pay a monthly fee to participate. (More than six million monthly fees in the case of World of Warcraft, the newest and most popular virtual world.) When a player logs off for the night, the world and the rest of its inhabitants continue to exist in the cyber-ether. Because the game's setting continues to evolve even after the computer is shut down (other players in different time zones battle ogres and make progress in the search for secret potions and whatnot), there's some debate over whether they are games, like a new Pac-Man, or places, like a New Pakistan.




**Synthetic Worlds: The Business and Culture of Online Games**
By Edward Castronova
University of Chicago Press, $29

In December 2001, Castronova posted a short paper online analyzing the economics of Everquest, one of the earliest such games. A little more than a year later, that paper, "Virtual Worlds: A First-Hand Account of Market and Society on the Cyberian Frontier," became the most-downloaded article from the Economics Research Network's collection of online academic material. Today, it's also the third most downloaded paper from the Social Science Research Network.

Castronova soon parlayed his time as an internet sensation into a gig as a telecommunications professor at Indiana University, and he also came out with a book, *Synthetic Worlds: The Business and Culture of Online Games*. He was among the first to argue that video games and virtual worlds are worthy of academic study. His interest in Everquest began as a player and enthusiast. But the economist in him was fascinated by the bustling trade in virtual items (swords, armor, and the like) that took place in Everquest's fantasy world of Norrath—and then spilled over, at least to a limited extent, into the real world, with instances of Norrathian weaponry and other virtual goods up for sale in U.S. dollars on eBay.

Subscribers to Everquest and similar games represent a small, if growing, subculture. But could virtual economies one day impact or intersect with real economies on a larger scale? Castronova thinks so. He argues that there is a "porous membrane" between the real world and the virtual, and that the existence of online worlds will soon have to be reckoned with in the fields of law, policy, and economics. Those eBay trades mean that Norrath has an exchange rate, a gross domestic product, and all the other hallmarks of a national economy. The gold pieces in these worlds aren't Monopoly money, he argues. They're new national currencies.

Already, these virtual worlds have had real economic effects in the everyday, offline world. So-called "virtual sweatshops" have



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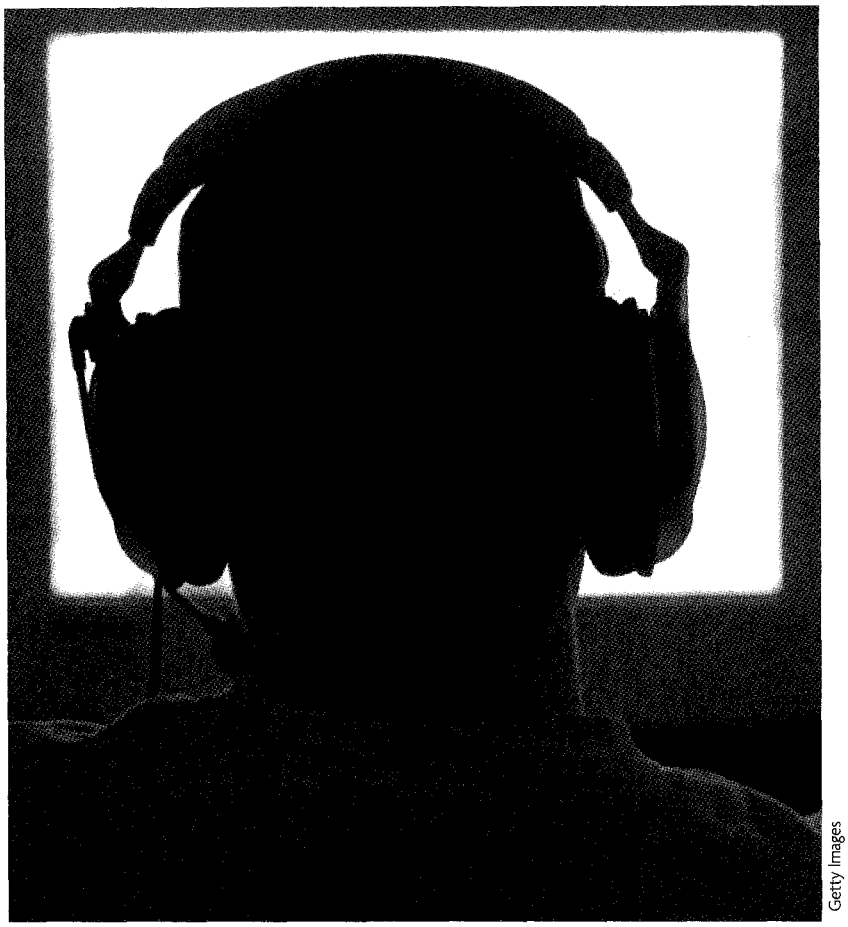
emerged in China, where workers earn money by spending hours each day in virtual worlds, acquiring items and then selling them to relatively time-poor but money-rich Westerners. As Castronova notes, more than half of the 40,000 computer crimes in South Korea in 2003 were related to online gaming, as criminals hacked into players' accounts to loot and then fence their valuable virtual property.

Scholars are debating the nature of these virtual property rights. Who owns these goods: the players, or the game makers? Could the IRS tax players on the value of their virtual property, even before the goods are traded on eBay and converted into U.S. dollars? Can the game makers—some of whom loathe the offline trade in virtual items—ban real-world trading of virtual goods, or do players have rights that can't be taken away? (One virtual world, Second Life, gets around that dilemma by granting its players the intellectual property rights to the virtual goods they create.)

What about free-speech rights? Castronova frets that game players typically forfeit "virtually every meaningful civic right" when they check the box that says "I Agree" to a long set of rules (that no one reads) before they set foot in a virtual world. In one notable case, the makers of The Sims Online banned a player for publishing a Weblog about the game—a blog that reported on a cybersex brothel with child prostitutes.

Unfortunately, in speculating about the growing significance of these games, Castronova often lapses into technotopian daydreaming. For instance, he muses on whether "synthetic worlds might also shatter the current view of objective reality and, for kicks, alter the nation-state system that has dominated international affairs since the Peace of Westphalia." He's doffed his economist hat and donned his futurist one for much of the book, and the results aren't pretty.



Getty Images

At a computer-gaming summit in Osnabrueck, Germany in May 2003.

Fanciful speculations aside, Castronova's main point that virtual worlds exist as more than lines of code is not so easily dismissed. Even if the numbers of people who emigrate to virtual worlds is too small to provoke a national crisis, these games are still a permanent and growing part of the online frontier, and they will continue to have effects that bleed into the offline world.

Liberals could learn something from the best chapter in *Synthetic Worlds*: "The Economics of Fun." Drawing upon his experience as a game player and his expertise as an economist, Castronova assembles a list of characteristics that make a virtual world fun. Alongside risk, competition, and acquisition, he lists fairness and equal opportunity. Every new player begins "life" with an identical allotment of abilities and equipment. Inequality quickly surfaces, but players don't mind because they understand that the rules of the game are fair and equitable. "Humans seem to prefer the challenge that inequality represents rather than the security that equality affords—with one very important proviso: everyone's status at the start of the game must be equal," Castronova writes. Of course, video game designers aren't concerned with political ideals; they just want to create a world that's entertaining.

Perhaps there's 2008 campaign-slogan potential here: It's time to make America fun again. And let's get it done before everyone moves to Norrath.

**Chris Suellentrop** writes "The Opinionator" column for *The New York Times*.



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# Faculty Lounge

## Harvard's new president explains why college professors can't teach.

**By James Beale**

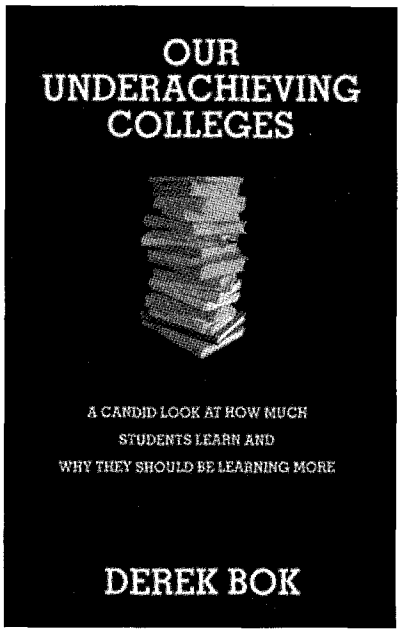
A story I was once told begins with two young men floating in a hot-air balloon across the countryside. After a while, they realize that they have drifted off their intended course and are lost. Seeking help, they call out to a man in his yard below, asking him where they are. "You?" replies the man. "Why, you're in a balloon."

The young men look at each other knowingly. "You're a professor at the local university, aren't you?" one calls back. "How did you know?" responds the man.

"Well," the young man yells, "what you just told me was accurate, but has absolutely no practical use."

It's hard to think of anything more central to a university than teaching. But in the academy, the most obsessively scrutinizing of worlds, pedagogical quality has gone largely overlooked. As a student at a well-regarded university, I've seen firsthand over the last few years how easy it is for students to complete college courses simply by cramming for tests twice a semester while tuning out the rest of the time without mastering the material.

The cause of improving teaching quality—and of perhaps imparting practical knowledge to students—now has a well-placed champion: Derek Bok. The Harvard professor spent 20 years as president of that university before stepping down in 1991, and is now taking over the world's most prominent academic post once again as an interim fill-in for the ousted Lawrence Summers. In his new book, *Our Underachieving Colleges*, Bok argues that American colleges and universities are paying insufficient attention to teaching quality, and in doing so, are leaving students unprepared for the challenges of the modern world.




**Our Underachieving Colleges: A Candid Look at How Much Students Learn and Why They Should Be Learning More**
By Derek Bok
Princeton University Press, $29.95

Bok calls academia "the only professional system that doesn't instruct its newcomers in how to do what they will spend most of their time doing." The problem, he believes, is institutional: Nobody teaches professors how to teach. New professors—often young and overworked—are assumed to know instinctively how to lead a classroom. So they teach the only way they know how: the way they themselves were taught. This creates a fundamentally conservative bias in the world of pedagogy.

This might be less problematic if we knew that the old ways were effective. But colleges refuse to accurately measure the effectiveness of specific teaching methods—leaving the instructors unable to improve the methods that aren't working. Bok notes, for instance, that the lecture remains by far the most common way to present students with information, even though according to two separate cited studies, the average student is unable to recall most of the factual content of a typical lecture 15 minutes after the end of class. The result is that students often leave college little smarter than when they arrived: According to another revealing study, a student who starts in the 50th percentile of an entering class rises only to the 69th percentile when compared to entering students at the time he graduates.

Bok goes out of his way to commend teachers' diligence. But though he is too diplomatic to say so explicitly unlike his predecessor as Harvard president, it's hard to avoid the conclusion that the faculty deserves a share of the blame for poor teaching. Professors tend to believe, says Bok, that "teaching is an art that is either too simple to require formal preparation,



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too personal to be taught to others, or too innate to be conveyed to anyone lacking the necessary gift." Thus, they rarely take steps to learn from one another, or to improve their methods—or even to consider the question of how to teach. When departments review their curricula, the focus is almost always on what should be required rather than how the required courses should be taught.

Even relatively minor tweaks in teaching style can significantly improve student performance. Bok tells the story of Harvard physicist Eric Mazur, who for years taught his introductory level physics course in the conventional way: He lectured, delivered lecture notes on the material, and left the rest to the assigned text books. Then he came across a 1985 study that tested students' knowledge of the underlying principles of Newtonian physics—after they had just completed an introductory course on the subject. The study found that the students still had only minimal understanding of the basic principles at issue, and what they did learn, they had learned independently of classroom exercise. When Mazur administered the same test to his class, the results proved similar. That led him to change fundamentally his style of teaching. Now, instead of allowing students to read the text after lectures, he requires them to read it in advance, and to submit a short paper a day or two before class. He then structures his classes in accordance with the students' questions, lecturing only for 10-15 minutes at a time before breaking to have the class discuss the material. At the end of the first year of this teaching style, Mazur's students had made twice as much progress in understanding the underlying principles of the material as students taught by other professors.

Getty Images

Columbia University's Language Laboratory in 1955.

Given the stagnant learning atmosphere in many college classrooms, it's no surprise that today's universities are failing to produce well-rounded intellects. The myth of the American college experience holds that these four years broaden a student's understanding of the world, but according to Bok, most college students see their world view significantly narrowed. One Harvard study he cites found that science and engineering students receive little or no guidance in improving their writing skills, and, knowing that they are not being assessed on them, often let those skills slip. Similarly, quantitative skills decline in the students not majoring in science and engineering. This specialized approach to teaching might make sense if our career-development system looked like China's, where matriculating freshmen have already been assigned both a major and often a career. But here, things are less siloed: Engineering majors end up as bankers; English majors go to work for tech companies; and many people change employers, and even sectors, several times in the course of their careers. Bok argues that we need more, not fewer, ways to understand one another in our diverse country.

Ultimately, Bok's recommendations—a mandatory teaching seminar for incoming faculty, a more systematic process of evaluating the professors, and a "bit of funding,"—may not be enough. It's hard to believe that teaching will improve unless those doing the teaching take an active interest in the problem. And, as Larry Summers recently found out, there's little evidence that that's happening.

Bok, of course, isn't just a scholar of the issue; he now has the chance to be a practitioner. As the highest profile academic in the world, he'll have a chance to change the way academics think about the interaction between the professor and the student. But as Bok may know better than anyone else, he has his work cut out for him.

**James Beale** is an intern at *The Washington Monthly.*



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# Help Yourself

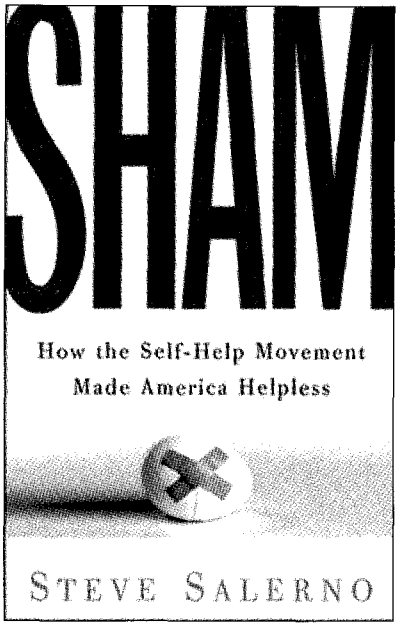
## How "life coaches" and celebrity shrinks pick the public's pocket.

**By Avi Klein**

Books-A-Million isn't the only bookstore in my Dupont Circle neighborhood, but it is the one with the most pedestrian selection. The social science section carries 12 copies of Sean Hannity's latest outrage, but browse for George Orwell, and you'll find one copy each of *Animal Farm* and *1984*. There's not a hint that the author was at all useful for purposes other than a term paper that's due tomorrow. What the store lacks in depth and atmosphere, however, seems to be made up for by one of the largest self-help divisions in Washington. The personal growth and New Age offerings far outstrip philosophy, poetry, and world history combined.

Indeed, self-help represents one of the largest growth areas in the publishing world. Dr. Phil McGraw, benefiting from Oprah Winfrey's patronage, has sold 23 million books in 37 languages. The nearly 4,000 new titles released each year bring in $650 million in sales—only a drop in the bucket for a $6.5 billion self-help industry also comprising weekend power retreats by the likes of Tony Robbins; life coaches who will, for a fee, coach you to become a coach yourself; and such radio busybodies as Dr. Laura Schlessinger, the physiologist who instead practices psychotherapy.

In his new book, *SHAM: How the Self-Help Movement Made America Helpless*, Steve Salerno identifies two particular strains of American psychological invalidism—empowerment and victimization—each with its own set of gurus and spokesmen. On the one hand, Americans enjoy deflecting responsibility for their own behavior onto such indefensible victims as society. But on the other hand, America's can-do entrepreneurial spirit supposes that, if one wants something badly enough, prays hard enough on it, and puts in a little work, one can overcome any obstacle. "Get over it," recommends empowerment enthusiast Dr. Phil, a line he allegedly first tried out years ago on his wife when confronted with suspicions of adultery.




**SHAM:**
**How the Self-Help Movement Made America Helpless**
By Steve Salerno
Crown, $24.95

If one positive thing can be said about the self-help industry, it is that empowerment—however vague the concept—has won out against victimization. In the 1980s, talk shows celebrated the abused and neglected; self-help books of the era referred to toxic people, toxic relationships, and toxic shame. "Victimization," Salerno writes, "became socially permissible, if not almost fashionable in certain circles." But somewhere between O.J. Simpson and Monica Lewinsky, Middle America began to sense that things had gone too far. Tender feelings, they said, led to slack criminal penalties and lower standards in schools. Oprah manned the point, first with her willingness to openly confront her weight issues and challenge women to take charge of their lives, and then by introducing the world to her bald-headed former jury consultant *beau ideal*.

But empowerment in theory is not the same as empowerment in practice, particularly when the therapy takes place on a sound stage before an audience of millions. As Salerno makes clear, it can be hard to distinguish television psychologists from the unscrupulous doctors who lend their white coats to the promotion of dubious natural healing



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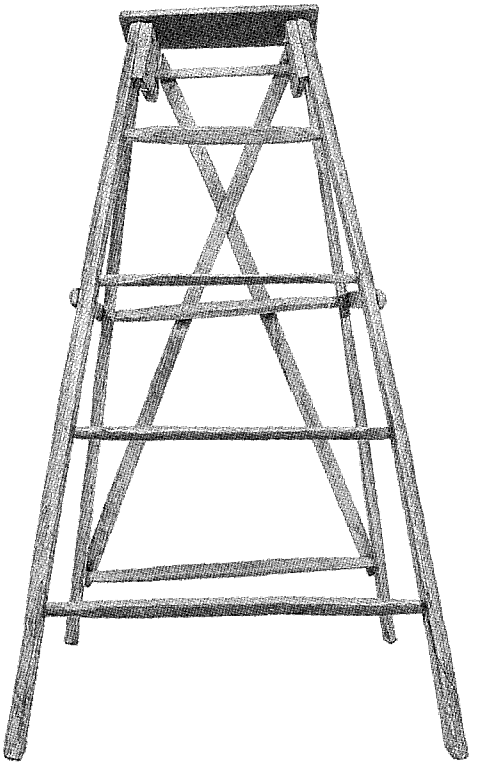
products. As anyone who has been to therapy knows, psychology is more art than science. One gastroenterologist may be as effective as another, but even the most qualified and reliable therapist may not be helpful to many patients, and most practitioners operate outside any formal oversight. For those like Dr. Phil and Dr. Laura who keep their clients at a distance through books and other media, there is nothing other than their ratings to keep them honest. To ward off liability, Salerno reports, "guests are required to sign a waiver form in which they acknowledge that Dr. Phil's advice is not to be construed as 'therapy or substitute for therapy,'" although that, of course, is precisely what his show is marketed as providing.



In fact, these programs come as close to providing therapy as "The People's Court" does to providing justice. But in the final analysis, not much permanent harm is done over the airwaves. Being called a "slut" by Dr. Laura may be unpleasant, but if one is "shacking up," it's the predictable response. Nobody appears on these shows as a substitute for needed therapy. Much more disturbing are America's 25,000 "certified" life coaches who, working more intimately with their clients, are able to milk thousands upon thousands out of their needy clients.

The beauty of life coaching is that the potential market is mind-bogglingly huge—anyone with a life needs a life coach, goes the slogan. For a few hundred dollars an hour, your life coach will assist in making personal and career decisions, and setting priorities. "Many life coaches begin with diagnostics intended to yield a reasonably valid personality profile of the customer," explains Salerno. "Having established a baseline...a coach works with him or her on a 'life blueprint' and eventually formulates a series of 'action plans.'" In short, these "New Age therapist[s] sans portfolio" earn their money by simply passing along common sense. How can this work, you ask? Life coaching is, according to Salerno, therapy with a different gender marketing plan. The word "coach," he writes, is used to draw in a male clientele: "Men make up a full sixty percent of the caseload of coaching while women represent seventy percent of the caseload in therapy."

Life coaching, Salerno explains, began in the 1980s with a financial planner named Thomas Leonard. Riding high in mergers and acquisitions, Leonard noticed his clients "seemed to need more from him than just the usual tips on how to invest." His masterstroke, however, was to position himself not as a coach to the regular man, but as the coach of other coaches. Franchising of this sort is typical of many scams, including late-night real estate courses and multi-level marketing, and it makes good financial sense: Tuition at the premier Coach University is $6,000 for full accreditation.

Salerno is at his best when detailing the lives and crimes of America's self-help celebrities. Did you know, for instance, that Dr. Laura's ex-husband refers to her as Ku Klux—she was "a wizard under the sheets"? But the book breaks down at the end as Salerno tries to live up to his subtitle's grandiose promises. The self-help movement, he argues, is responsible for more than liberating people of their wallets and self-respect. It also inculcates resistance to standardized testing in schools, encourages trial attorneys, and is responsible for abuses of the Americans with Disabilities Act. And although most of his other targets—especially the alternative medicine industry—deserve rougher treatment than Salerno is even willing to mete out, none has anything to do with the self-help industry except that they rely on typical American credulity.

I suppose I'll just have to get over it.

**Avi Klein** is a writer in Washington, D.C.



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# Talking Points

## Is modern technology killing conversation?

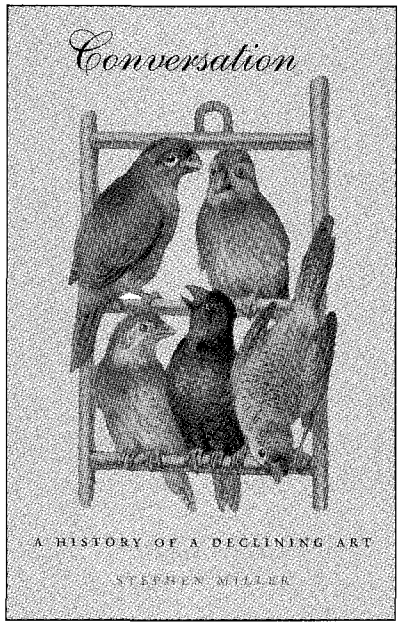
**By Elizabeth Austin**

My friend Peter is refusing to speak to me. He's not angry at me—at least, I don't think he is. As he generally prefers to keep in touch via email, gauging his mood is, as you might imagine, difficult to do. Peter contends that emails are more concise and often more precise than regular talk and are blessedly less intrusive and time-devouring than old-fashioned phone calls or lunch dates. But I wonder whether the real charm of our electronic communication—both for him, and guiltily, for myself as well—is the extreme pleasure of nattering on endlessly without any of those pesky interruptions from the listener that so often characterize person-to-person conversation.

But what are the implications for social life, and for society itself, if we lose the basic ability to listen, to ponder, and to respond—the ability to converse? It was with those thoughts in mind that I welcomed' the publication of Stephen Miller's *Conversation: A History of a Declining Art*, which promised to be an overview of the rise, decline, and imminent fall of thoughtful speech among civil, educated people.

Talk about boring.

It is surprising, and a bit sad, that anyone could compile so tedious a book on so fascinating a subject. Conversation is nothing less than "the feast of reason and the flow of soul," as Alexander Pope wrote (in apparently the only 18th-century quotation on the subject not reprised in this volume. A more precise title for this book would have been, Things Lots of Other People Have Written About Conversation.)




**Conversation**
**A History of a Declining Art**
By Stephen Miller
Yale University Press, $27.50

Today, we find ourselves drowning in words—radio talk shows; television talk shows; magazine, television and radio interviews by and with the hosts of radio and television talk shows; robocalls from political candidates and their opponents; tape-looped commercials at the grocery store checkout line; spam emails; junk faxes; blogs, blogs about blogs, and blogs about blogs about blogs. Yet, amid this surfeit of words, we find ourselves starved for real conversation, for those ineffable moments when we connect with another to discover a heart open and a mind ablaze.

We long to learn more about conversation—what it is, what it once was, and what it should be. Unfortunately, this book doesn't tell us any such thing. Mr. Miller merely presents us with an undigested agglomeration of facts and quotations, shying away from the historian's necessary intellectual task of marshaling those facts into a compelling case for one side or the other. And it doesn't help that he is a numbingly pedantic writer: "One cannot be a good conversationalist if one lacks a sense of humor," Miller writes, in a proclamation that cries out for a gloss of hot pink highlighter. "Equally important is being a good listener." Particularly annoying is his persistent habit of making a statement, then backing it up with a quotation that says precisely the same thing. "If we think someone finds us boring, we dislike that person. As La Rochefoucauld says: 'We often forgive those who bore us, but we cannot forgive those who find us boring.'"

But in books, as in real-life conversations, most of us are willing to forgive some defects in style when they're counterbalanced by real substance. And that's where this book really falls short.

The problem begins with Miller's chosen definition of conversation, which is limited to talk without a clear immediate pur-



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pose, such as information gathering or financial gain—"that reciprocal interchange of Ideas, by which the Truth is examined," as Henry Fielding put it. Miller also focuses his attention mostly on conversations amongst small- to medium-sized groups of people—18th-century coffeehouse habitués, or 21st-century dinner party guests. Most of his discussion then centers on quotations from people writing essays about those conversations, which is nothing at all like conversation itself.

Miller further confines the topic by ruling out the notion of meaningful conversation with those who hold beliefs that are deeply opposed to our own. "I would have no trouble continuing a conversation with someone who is deeply religious so long as he or she was not a zealot who believed in Biblical inerrancy, but I would find it hard to continue a conversation with someone who believed in astrology or thought Stalin was basically a good guy," he states flatly. He notes his approval of a dinner party guest who "calmly" walked out when his hostess announced her opposition to all war, under all circumstances. Is there no value in offering a respectful ear to someone with whom we fundamentally disagree? Should we have no curiosity about the interior lives of those who have chosen radically different paths? My own life has been enriched by deep, thoughtful conversations with exactly those people Miller so blithely writes off—religious fundamentalists, political purists, even the odd astrologer. In listening to them explain their views, I was not converted. But I was led to consider my own thoughts and beliefs from a different perspective, and I believe I am a clearer thinker—perhaps even a better person—as a result.

By choosing such a restricted canvas, Mr. Miller overlooks the vast majority of our conversations, especially those that are the most important in our lives—the conversations between friends, between lovers, between family members. Obviously, most of those confidential conversations are lost to history. By their very nature, great conversations leave few literary footprints—no snappy one-liners or quotable epigrams. The best conversations are often fuzzy in recollection, as we look back not on words but on meaning, the aha! of a newly grasped idea, or that sweetest of emotional responses: "Oh, me too, me too!"

But a thoughtful search through letters, memoirs, and fiction might yield some important clues to the historic changes in what we choose to say to one another, and the topics on which we remain uncomfortably silent. Certainly, it seems as though we talk more than previous generations, thanks to cell phones, email, and a pervasive culture of confessional self-revelation. But the vast array of conversational self-help books suggests that we still have trouble spitting out what we mean, even to those we love. In talking more, are we saying less?

The book's failure to grapple with that basic question stems, in part, from Miller's obvious disengagement with contemporary life. He reports, with some surprise, that "According to several observers, book discussion clubs have become very popular in recent years," and reveals that "Oprah's guests often promote a new book."

It's not surprising, therefore, that he gives only sketchy attention to the disturbing rise of virtual conversation—the disembodied, faceless, often voiceless communication of the electronic age. Theoretically, our electronics ought to promote conversation, allowing us to connect with far-

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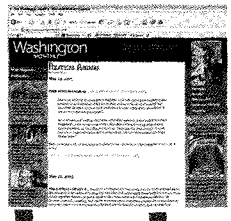
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flung friends and family as much as we please, as often as we like. But in reality, these connections leave us feeling stunted and dissatisfied. We miss the charm of a human voice ungarbled by patchy cell coverage or ambient traffic noise. We try desperately to compress the myriad cues of facial expression—a half-smile, a raised eyebrow, a flicker of distress, a sparkle of suppressed hilarity—into the flat generics of emoticons.

Even those who have never known a world without cell phones or emails find themselves increasingly frustrated by their limitations. A young friend of mine who is vainly attempting to maintain a long-distance relationship via low-cost instant messaging offered this example:

Me: soo how was ur day

Other Person: don't act like you HAVE to ask me about my day!!!

Me: no, I didn't mean it like that, I was being sincere!!

OP: well I can tell now that you were angry to begin with

Me: what? I'm not angry at all....

OP: ... well then what are you?

Me: wait—what?

OP: you don't understand me!

Me: I think this form of communication is making it impossible, I'm going to call you right now.

OP: you never, ever write me.

Me: (gahhh!)

As Miller so bloodlessly admits, "Online conversation has many pitfalls." Including, apparently, heartbreak.

Despite all his book's faults, however, Miller does offer some real consolation to those of us who fear that conversation is a declining art by dropping so many quotes from writers of previous eras who felt exactly as we do today. "Most people are so infatuated with themselves that they overlook other people's pleasures; and, in order to show themselves to be subtle, intuitive, and wise, they will advise, and correct, and argue, and contradict vigorously, not agreeing with anything except their own opinions," Giovanni Della Casa wrote in 1558. Five centuries later, Rebecca West tartly agreed: "There is no such thing as conversation. It is an illusion. There are intersecting monologues, that is all."

I wish *Conversations: A History of A Declining Art* had tackled those doomsayers head-on, by offering evidence that true conversation exists, and persists. Certainly, great conversation is not—cannot—be an everyday experience. Real conversation is a high-wire act without a net, carrying the emotional risk that we will say something we don't mean—or worse, something we mean deeply, but did not intend to say.

But those rare and evanescent conversations are the DNA of human relationships, and thus of society. For that reason, I hope that other, better authors will tackle the ultimate questions that this book leaves unanswered: What is conversation? What should it be? What does conversation mean to politics, to government, and to civil society as a whole? And what, God help us, would we do without it?

**Elizabeth Austin** is a writer in Chicago.



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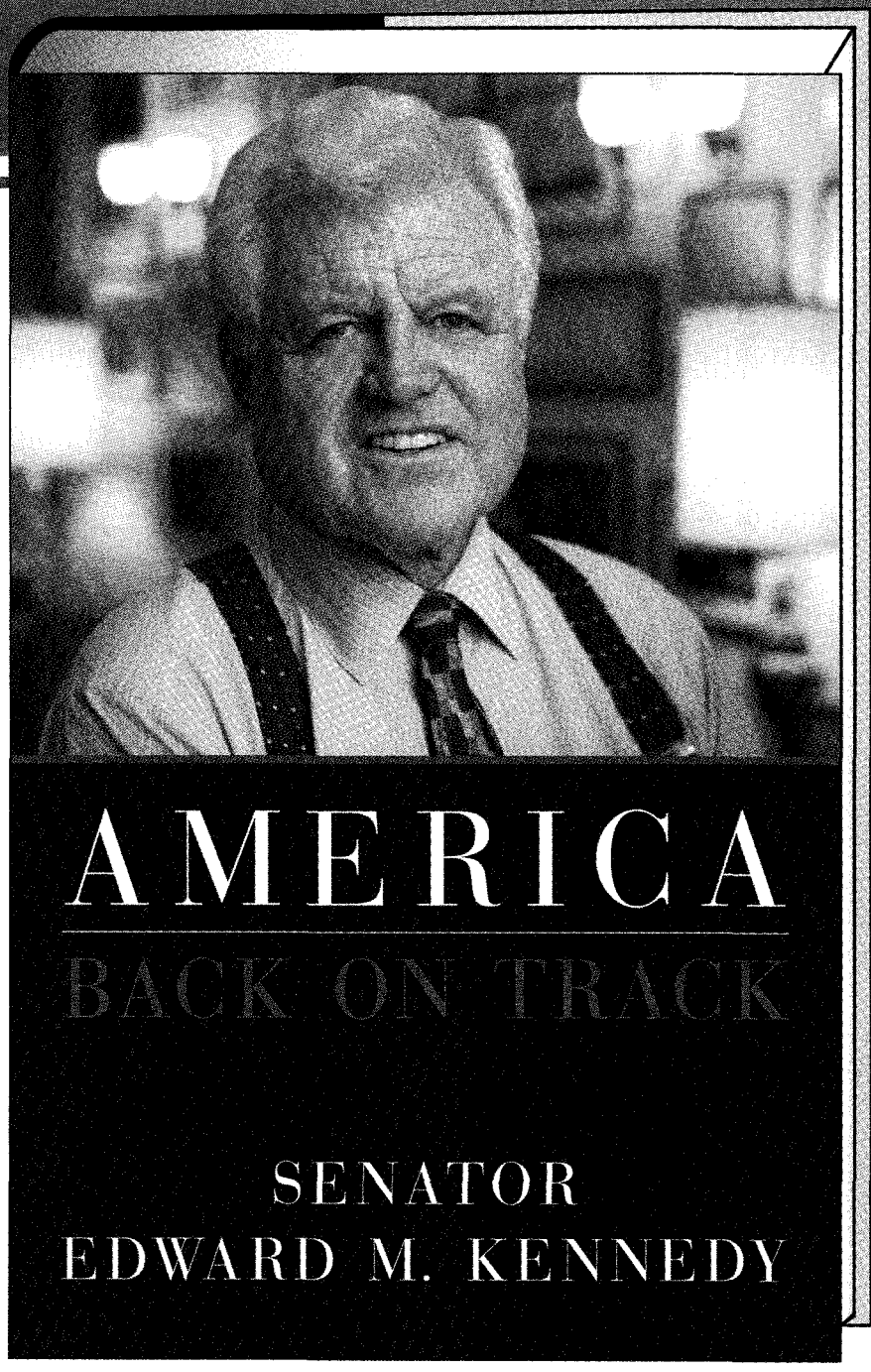
Senator Edward M. Kennedy offers an inspiring vision for reform and renewal




"Everyone who says the Democrats don't stand for anything needs to read this book." —Paul Begala

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